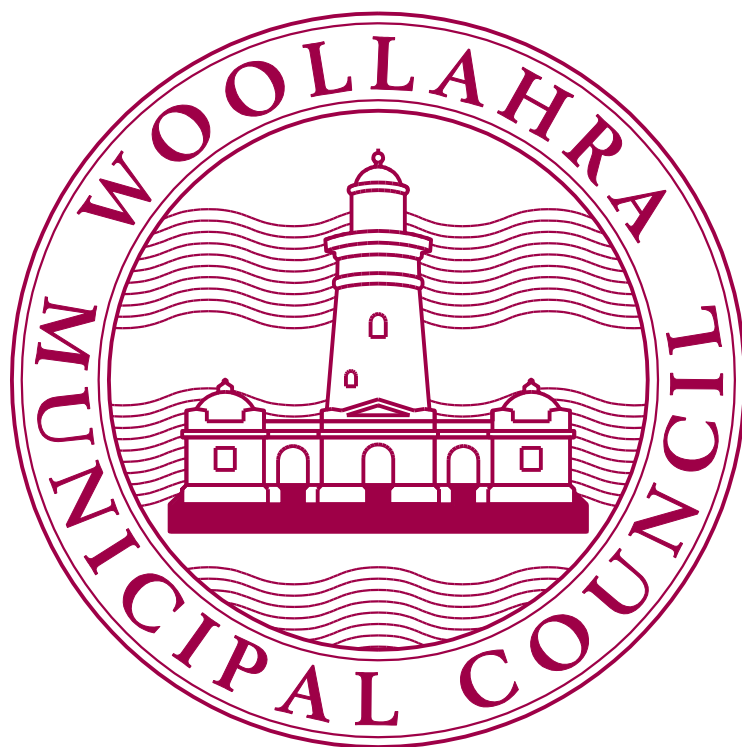


KIAORA LANDS REDEVELOPMENT  
ASSESSMENT REPORT



DEVELOPMENT APPLICATION 531/2011/1

SYDNEY EAST JOINT REGIONAL PLANNING PANEL  
MEETING 14 JUNE 2012

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## EXECUTIVE SUMMARY

This proposal is for major retail/commercial development in the context of the Woollahra Local Government Area in general and the Double Bay business centre in particular. It also facilitates a significant increase of public parking in Double Bay, transfers public library facilities into the centre and creates additional public space.

The Kiaora Lands comprises a major land holding in the southern part of the Double Bay commercial centre. It comprises private and public land which is owned by either Woollahra Municipal Council or Woolworths. Woollahra Municipal Council and Woolworths have entered into an agreement to carry out a joint development of the land which includes existing residential and commercial properties, public carparks and portions of public roadways.

Amendments have recently been made to the *Woollahra Local Environmental Plan 1995* (WLEP) and the *Double Bay Centre Development Control Plan 2003* (Double Bay Centre DCP). The amendments to WLEP relate to land use zonings, height and density standards. The amendments to the Double Bay Centre DCP introduce controls for the character of the area, urban design, proposed building envelopes, trees and the amenity of existing residential properties. These standards and controls came into effect pursuant to the provisions of the *Environmental Planning and Assessment Act 1973* (the Act), part 3 following extensive community consultation.

The proposed development essentially consists of the demolition of all existing buildings and structures, the construction of 2 new buildings, one with a frontage to New South Head Road, the other with a frontage to Kiaora Lane. The New South Head Road building will be 4 storeys and accommodate retail and commercial spaces the specific use of which is to be determined and a public library. The Kiaora Lane building will be 3 levels with public parking, loading docks and a grocer (Thomas Dux) on the ground floor, a large supermarket (Woolworths), bottle shop (Dan Murphys) and commercial office space (tenants unspecified). The public carpark will provide 446 carparking spaces.

The development will create a 'shared zone' along Kiaora Lane including a public plaza.

The land is low-lying, prone to flooding and contains some low levels of contamination. In response the works proposed by the development include upgrading stormwater drainage, raising the level of Kiaora Lane, the remediation of contaminants and the treatment of acid sulphate soils.

The proposed built form is generally compliant with the planning standards and controls under the WLEP and the Double Bay Centre DCP or is conditioned to be compliant. The exception is breaches of the height controls of both buildings. The breaches in relation to the New South Head Road building are a consequence of tension in between the density and height standards, i.e. maximising density necessarily creates a problem in complying with the maximum height standards. In relation to the Kiaora Lane building the height breaches relate solely to lift overruns. The height controls which apply to the Kiaora Lands are the only statutory height controls that apply in the Double Bay commercial area. The applicant's SEPP 1 objections are considered to be well founded and compliance with the height standards is considered to be unreasonable and unnecessary, as discussed in the assessment report.

Public consultation was undertaken in respect to the DA in accordance with the Act, the *Environmental Planning and Assessment Regulation 2000* (the Regulations) and Council's *Development Control Plan for Advertising and Notification of Development Applications and Applications to Modify Development Consent* (the Notification and Advertising DCP). Letters were sent to the owners of properties in a wide catchment area, advertisements appeared weekly in the local newspaper and site notices were displayed on each of the properties which comprise the Kiaora Lands development site. Public consultation occurred over an extended period from December 2011 to February 2012. A total of 49 submissions were received consisting of 42 objections, including submissions from and on behalf of the Double Bay Residents Association, and 7 supporters. The objections covered a range of issues with the major concerns relating to traffic/parking and noise. These issues are discussed in detail in part 15 – Impacts, of the assessment report. The design of the development and conditions included in the recommendation of the assessment report are intended to ensure that traffic/parking and noise impacts are appropriately managed.

Amended plans were submitted in relation to the roof-top carparking. Notification of the amended plans resulted in 7 objections being received. The majority of those objections related to the development generally rather than to the specific amendments.

The proposal, subject to the conditions set out in the recommendation of this report, is considered to be consistent with the planning controls and in particular with the specific controls that apply to the Kiaora Lands development site. When assessed under the heads of consideration under s.79C of the Act the proposal is considered to be satisfactory for approval.

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	R1
<b>FILE No.</b>	DA 531/2011
<b>PROPERTY DETAILS</b>	1, 2, 3-7 & 4 Anderson Street, Double Bay 1, 2, 3, 4, 5, 6 & 7 Kiaora Road, Double Bay 433-451 New South Head Road, Double Bay 1-9 & 2 Patterson Street, Double Bay Parts of Anderson Street, Kiaora Lane & Patterson Street, Double Bay <b>Lot &amp; DP No.:</b> LOT: 3, 4, 5, 6, 7, 9, 18, 19 & 20 DP: 12264 LOT: 1 DP: 68509 LOT: 81 DP: 774685 LOT: 1 DP: 508776 LOT: 1 DP: 502206 LOT: 1 DP: 509113 LOT: 1 DP: 507107 LOT: 1 DP: 64445 LOT: 1 DP: 88063 LOT: 1 DP: 199252 LOT: 10 DP: 1046816 LOT: 4 DP: 150454 LOT: 1 DP: 88003 LOT: 6 DP: 703558 LOT: 1 DP: 75900
<b>ZONING:</b>	<b>Site Area (m<sup>2</sup>):</b> 14,040.1m <sup>2</sup>
<b>PROPOSAL:</b>	General Business 3(a) Kiaora Lands Redevelopment comprising demolition of existing buildings and structures, a new 4 storey commercial/retail building fronting New South Head Road and including a new public library, a new 3 level commercial/retail building fronting Kiaora Lane, including a supermarket and public parking and public domain improvements.
<b>TYPE OF CONSENT:</b>	local/integrated
<b>APPLICANT:</b>	The Planning Group (TPG)
<b>OWNER:</b>	Woollahra Municipal Council Woolworths Ltd Woolworths Properties Pty Ltd Fabcot Pty Ltd
<b>DATE LODGED:</b>	18/11/2011 17/4/2011 amended plans (replacement DA)
<b>AUTHOR:</b>	Mr P Kauter
<b>CONSENT AUTHORITY:</b>	Joint Regional Planning Panel (Regional Panel)

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

Two (2) SEPP 1 objections have been submitted with this DA. They relate to the proposed height of the New South Head Road building and to the height of the Kiaora Lane building.

The SEPP 1 objections are discussed in detail in part 11.3 of this report.

NOTE: A SEPP 1 objection was submitted with the DA in relation to the floor space ratio (FSR) development standard under the *Woollahra Local Environmental Plan 1995* (WLEP) for the New South Head Road building. A review of the FSR calculations determined that the development standard was not exceeded.

The SEPP 1 objection regarding the height of buildings standard in the WLEP in respect to the Kiaora Lane building was revised by the applicant on 12/3/12 to include the lift/stair enclosure on the Kiaora Lane elevation.

## **1. RECOMMENDATION PRECIS**

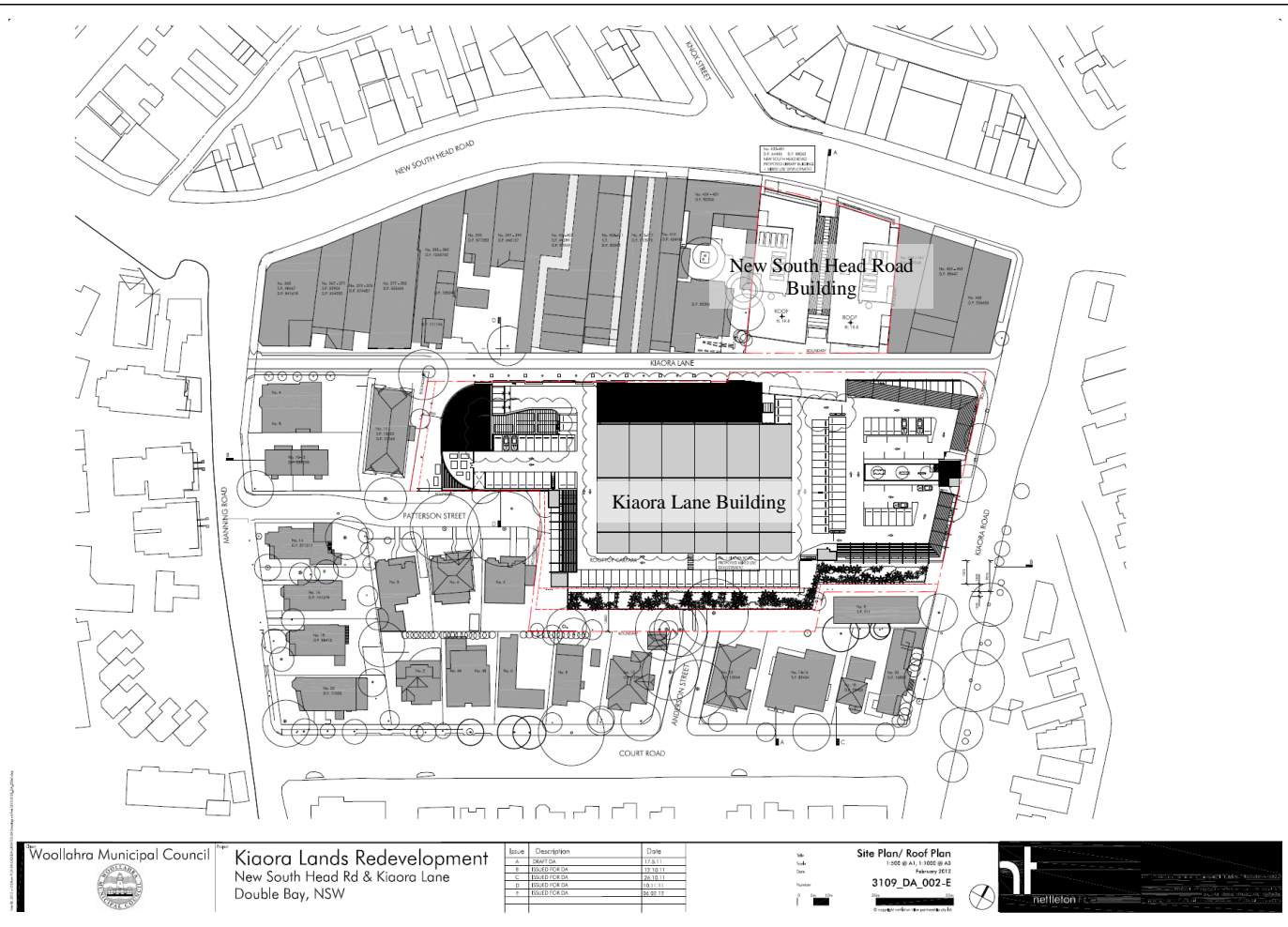
The recommendation is that the application be approved subject to conditions. This is because the development is consistent with, or is required subject to conditions to be consistent with the relevant planning controls that apply to the site. The most relevant planning controls are those contained in the WLEP (amendment no. 67) and the *Double Bay Centre Development Control Plan 2002* (amendment no. 3) (Double Bay Centre DCP).

## **2. PROPOSAL PRECIS**

The proposal is known as the Kiaora Lands Redevelopment. The Kiaora Lands Redevelopment is a joint venture between Woollahra Municipal Council and Woolworths. It involves:

- demolition of existing buildings and structures
- a new 4 storey commercial/retail building fronting New South Head Road and including a new public library (the New South Head Road building)
- a new 3 level commercial/retail building fronting Kiaora Lane, including a supermarket (the Kiaora Lane building)
- and public parking and public domain improvements

The following plan shows the location of the proposed new buildings.



The proposal also includes ancillary development such as infrastructure works, provision of utilities/services and remediation of contaminated land.

The *Environmental Planning and Assessment Act 1979* (the Act), schedule 4A, sets out development for which Regional Panels may be authorised to exercise consent authority functions of councils. Schedule 4A, cl.4 includes the following council related development:

*Development that has a capital investment value of more than \$5 million if:*

- (b) *the council is the owner of any land on which the development is to be carried out, or*
- (d) *the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

The development has a capital investment value of more than \$5 million. The capital investment value of this development is \$65,426,423.

The council owns land on which the development is to be carried out being 3-7 Anderson Street, Double Bay, 1 Kiaora Road, Double Bay, 1-9 Patterson Street, Double Bay and Anderson Street, Kiaora Lane and Patterson Street, Double Bay.

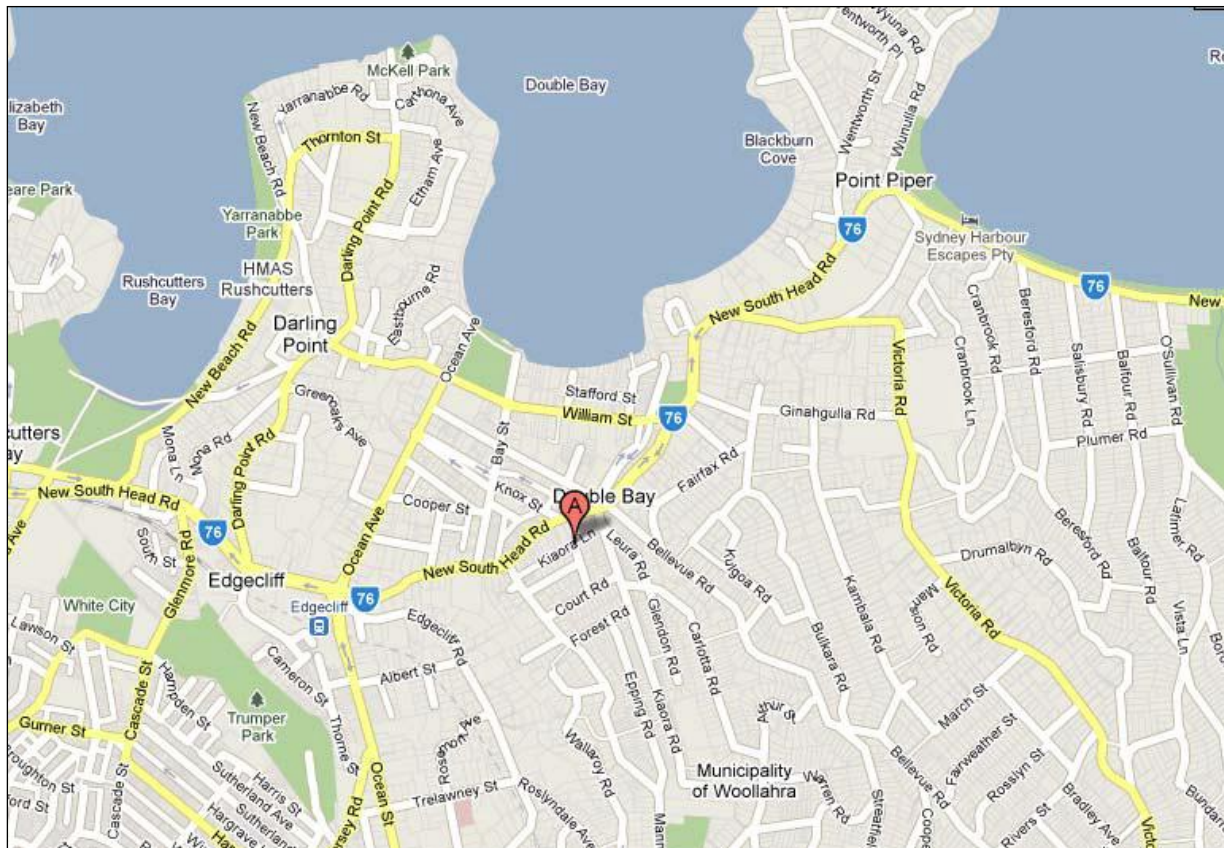


The council is also a party to an agreement, including an agreement with Woolworths Pty Ltd, relating to the development.

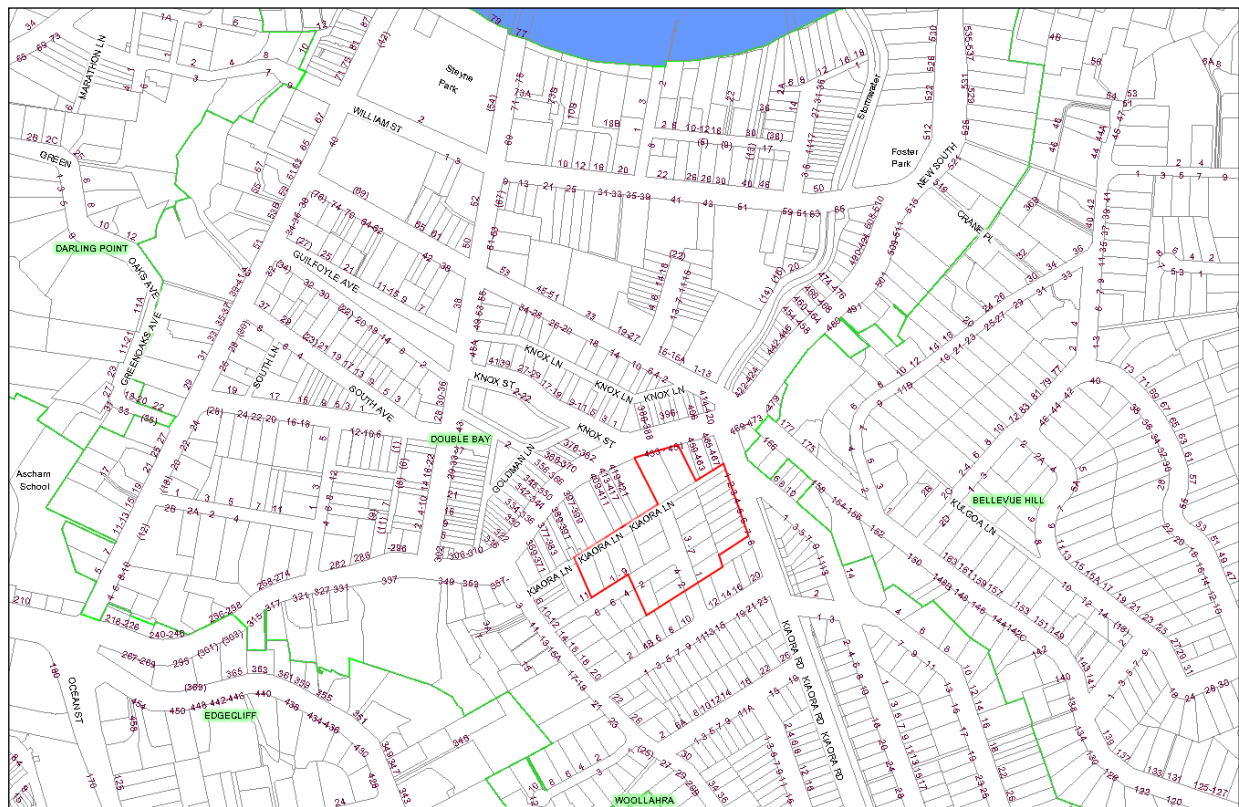
Therefore the Regional Panel is authorised to exercise the consent authority functions of the council for this DA.

### 3. SITE MAPS/PLANS/AERIAL PHOTOGRAPH

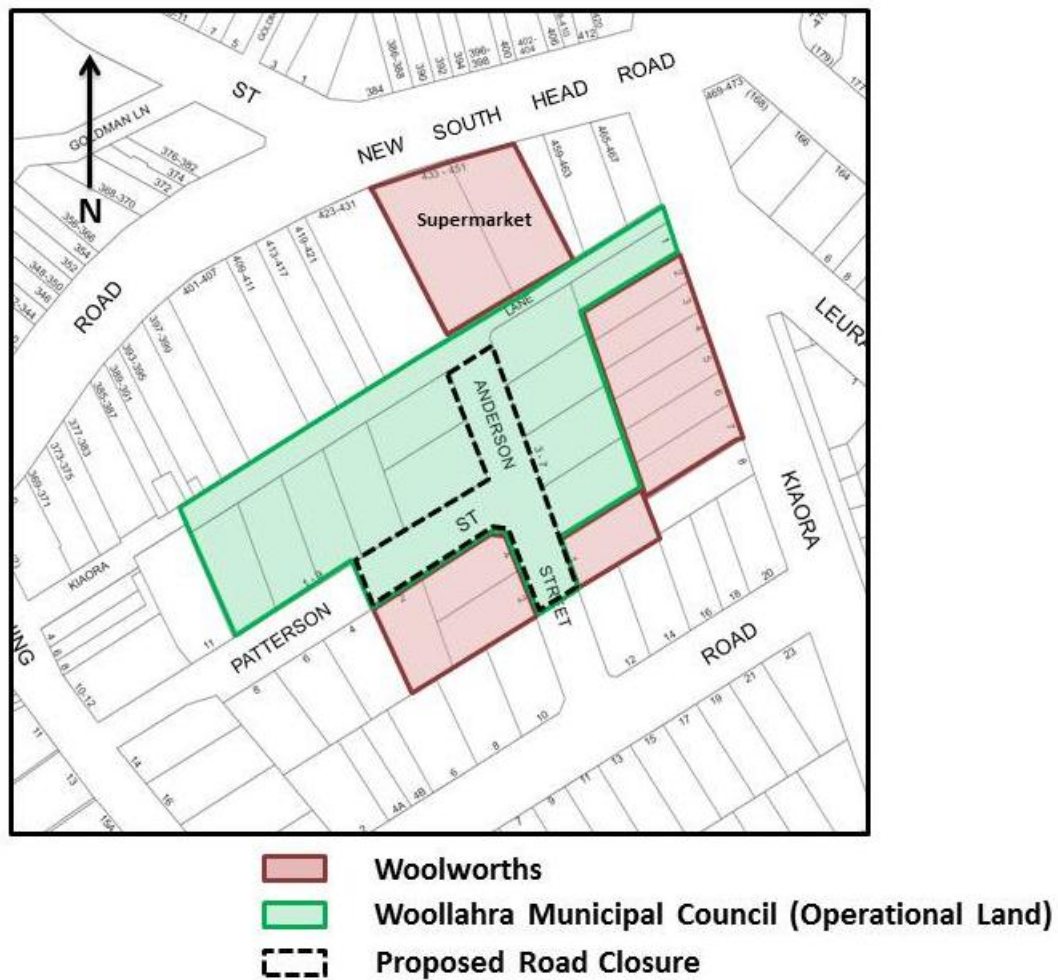
#### 3.1 Area map



Source: Google Earth



### 3.4 Land ownership plan



Supermarket	2,173m <sup>2</sup>
Land south of Kiaora Lane	11,867.1m <sup>2</sup> (road closure 2,072m <sup>2</sup> )
<b>TOTAL</b>	<b><u>14,040.1m<sup>2</sup></u></b>



### 3.4 Aerial photograph



### 3.5 Land use map





### 3.6 Height map



### 3.7 FSR map



## 4. DESCRIPTION OF PROPOSAL

The proposal is a joint development by Woollahra Municipal Council and Woolworths to carry out a major redevelopment of the land known as Kiaora Lands located in Double Bay commercial centre.

The proposal is to:

- demolish existing buildings and structures which currently occupy the land and the removal of some trees to make way for the development
- construct 2 new buildings
- provide signage
- carry out civil works involving creation of a 'shared zone' along Kiaora Lane and drainage

The carrying out of the development includes works necessary to remediate contaminants which investigations have shown exist on the land.

The new development will accommodate:

- |                                     |                          |
|-------------------------------------|--------------------------|
| • Woolworths supermarket            | 5,027m <sup>2</sup>      |
| • Dan Murphy's liquor store         | 1,181.1m <sup>2</sup>    |
| • Thomas Dux grocer                 | 1,134.9m <sup>2</sup>    |
| • Retail speciality (upto 26 shops) | 2,164.5m <sup>2</sup>    |
| • Commercial                        | 3,227.4m <sup>2</sup>    |
| • Library                           | 2,240.8m <sup>2</sup>    |
| • Carparking                        | 446 spaces over 2 levels |

### 4.1 Demolition

The existing buildings to be demolished are:

- a 2 storey cement rendered commercial building at 433-451 New South Head Road which accommodates the existing Woolworths Supermarket
- bitumen carparks (x2) at 1-9 Patterson Street and 3-7 Anderson Street (total number of existing parking spaces is 145)
- a single storey brick commercial building at the corner of Anderson Street and Kiaora Lane which accommodates auction rooms (AKA 3-7 Anderson Street)
- a 2 storey brick and tile residential flat building at 2 Anderson Street and
- 10 x single storey brick and tile detached dwelling houses, 1, 2, 3, 4, 5, 6 & 7 Kiaora Road, 2 Patterson Street and 1 & 4 Anderson Street

### 4.2 New buildings

The 2 new buildings are:

- a 4 storey building on 433-451 New South Head Road:
  - The 3 upper floors on the eastern side of this building will accommodate a public library. The remainder of the building will be used for retail and commercial purposes. The building will feature a predominantly glazed central atrium type area connecting the 2 sides on the lower 3 levels and containing an arcade on the ground floor. This atrium will be recessed on the New South Head Road frontage

- The building will be built to both side boundaries. The northern wall of the eastern side of the building will be built to the alignment of New South Head Road while the western side will be setback a maximum of 3.35m (upper level) from the New South Head Road alignment. The building will be setback a maximum of 5.8m (scaled) from the angled alignment of Kiaora Lane.
  - Construction will comprise concrete floor and roof slabs supported on concrete columns with the exception of the ground floor which will be a concrete slab on ground. The side walls will be masonry infill. The central section of the roof will be in the form of a sloping skylight consisting of glass and metal sheeting and which will be lower than the main roof slabs. The New South Head Road elevation will feature glazed curtain walling behind projecting horizontal glass and aluminium louvers on the upper levels, apart from a terrace on the western side of the uppermost level. A glass cantilevered awning is proposed over the New South Head Road footpath. The Kiaora Lane elevation will be mainly curtain wall glazing with some metal cladding.
  - The ground floor (RL3.2 & RL3.3) will match the existing New South Head Road footpath level (RL3.2 (varies slightly)) and be 1m (approx.) higher than the kerb in Kiaora Lane (RL2.36-RL2.14 approx.).
  - The building will feature a central arcade at ground floor providing pedestrian access from New South Head Road to Kiaora Lane and with voids at the upper levels. The arcade will include escalators between the ground and 1<sup>st</sup> floors.
  - Accommodation will consist of:
    - at ground floor - open plan retail (1,183.2m<sup>2</sup>), arcade, office lobby, escalators, lifts, stairs, amenities and services
    - at 1<sup>st</sup> floor (RL7.5) - part of the public library (814.5m<sup>2</sup>) on the eastern side with a balcony on the southern (Kiaora Lane) elevation, retail (655m<sup>2</sup>) on the western side, escalators, voids, lifts and stairs
    - at 2<sup>nd</sup> floor (RL11.7) - part of the public library (747.9m<sup>2</sup>) on the eastern side, commercial office space (745.2m<sup>2</sup>) on the western side, voids, lifts and stairs
    - at 3<sup>rd</sup> (upper) floor (RL15.9) - part of the public library (678.4m<sup>2</sup>) on the eastern side, commercial office space (709.1m<sup>2</sup>) with a terrace on the northern (New South Head Road) elevation and with amenities on the western side, lifts, stairs and the roof over the arcade.
    - at roof level (RL19.8) - stair accesses, plant and water tanks.
  - The setback area at the Kiaora Lane end of the building will contain an underground rainwater tank and an electrical substation.
- a 3 level building on the land to the south of Kiaora Lane:
    - this building will have landscaped setbacks to the existing neighbouring residential properties to the south (Court Road/Kiaora Road properties) and west (Patterson Street properties). The setback to the Court Road properties will be 7m at ground level, increasing to 13.8m at the 1<sup>st</sup> floor level which will be in the form of a landscaped roof. A pedestrian link is proposed within part of the western setback, between Kiaora Lane and Patterson Street, having a minimum width of 6.2m.
    - the ground floor will be mainly public parking, 174 car spaces, 19 motor cycle spaces and storage for 32 bicycles. The surface of the parking area will vary from RL3.0 on the northern side to RL2.2 in the south eastern corner. Three (3) carpark entries/exits are proposed, one in the south eastern corner off Kiaora Road, one off Anderson Street to the south and the other one off Patterson Street to the west. The carpark will include an internal pedestrian link between Kiaora Lane and Anderson Street. The eastern end of the ground floor will accommodate a Thomas Dux grocer (1,134.9m<sup>2</sup>) (RL3.2) at the corner of Kiaora Road and Kiaora Lane with an office lobby (RL2.05) and loading dock (RL2.0) to the south. This loading dock will be accessible from Kiaora Road. On the northern, Kiaora Lane, frontage retail lettings are proposed along with travelators, lift and stairs. There will

be a number of openings allowing pedestrian access from Kiaora Lane directly to the carpark. A 2<sup>nd</sup> loading dock is proposed at the western end of the building to service a Dan Murphy's liquor store on the 1<sup>st</sup> floor. Access to this loading dock will be via Kiaora Lane with an exit via Patterson Street.

- The 1<sup>st</sup> floor will mainly accommodate Woolworths supermarket (4,961m<sup>2</sup>) with commercial office space (1,773m<sup>2</sup>) at the eastern (Kiaora Road) end and a Dan Murphy's liquor store (1,181.1m<sup>2</sup>) at western end. Travelators are to be located at the northern end of the supermarket providing access to and from the ground floor and upper levels of the building.
- The upper level will comprise roof top car parking (285 spaces). Eighty one (81) spaces at the eastern end of the upper level will be accessed via internal boom gates. A double width ramp at the north western corner of the building will provide vehicular access from the ground level to the roof. Centrally located, covered shade structures (x 4) are proposed over the central parking spaces. Open shade structures are proposed to the eastern perimeter and the southern part of the western side of the roof level carpark. Enclosed plant rooms are to be located on the north western part of the upper level. The upper level roof slab will contain a void over the lobby area of the commercial offices at the eastern end of the building at 1<sup>st</sup> floor level.
- The building will be constructed of concrete floor and roof slabs supported on columns, apart from the ground floor which will be slab on ground construction. The elevations of the building will incorporate a variety of materials. The Kiaora Lane, Kiaora Road, Patterson Street and western elevations will feature glazed curtain walling with projecting sunshade louvers and differing types of metal/aluminium screens incorporating graphics. The southern elevation will be mainly painted masonry and precast concrete.

### 4.3 Signage

The application seeks approval for a variety of advertising signs on both buildings.

Four (4) signs are proposed on the New South Head Road building. Two (2) of these are vertical wall signs on the New South Head Road frontage displaying the word 'LIBRARY'. One (1) is on the southern side of the New South Head Road elevation, the other is on the eastern side of the building's centrally recessed atrium. A third sign is proposed above the entry to the arcade on the New South Head Road elevation and displays the word 'woolworths' plus logo. The fourth sign will be a vertical wall sign on the Kiaora Lane elevation displaying the word 'LIBRARY'.

On the Kiaora Lane building signs are proposed displaying advertisements for Woolworths, Dan Murphy's and Thomas Dux, including logos. Eight (8) signs are proposed on the Kiaora Lane elevation with 2 wrap around signs at the corner of Kiaora Road. A wall sign is proposed on the western elevation. Two (2) signs are proposed on the southern elevation, 1 on each side of the Anderson Street carpark entry/exit. Three (3) wall signs are proposed on the Kiaora Road elevation and a pylon sign is proposed at the southern end of the Kiaora Road frontage. Parking signs are proposed on the Kiaora Road, Patterson Street, southern and western elevations.

### 4.4 Civil works

The proposed civil works mainly relate to Kiaora Lane. Works are also proposed for other street frontages in Anderson Street, Kiaora Road and Patterson Street.

Kiaora Lane will be redeveloped as a 'shared zone' from the corner of Kiaora Road to the western alignment of the site. This means it will be a designated section of road where vehicular and pedestrian traffic share the same road space. A 10km speed limit will apply and drivers must give way to pedestrians at all times. To facilitate this the shared zone will have a significantly different



environment from a normal road including decorative pavement, no footpath, kerb or gutter and incorporate tree planting, lighting (to future design) and appropriate signage .

The shared zone will form part of a public plaza to be located between the 2 new buildings. The public plaza will have dimensions of 45m x 18m (approx.) with pedestrian only zones on either side of the shared zone. The plaza will lead off the arcade of the New South Head Road building and adjoin retail tenancies within both of the proposed buildings. A feature shade tree is to be planted on the northern side of the plaza together with the installation of street furniture (e.g. benches).

It is also proposed to raise the level of this section of Kiaora Lane. The increase in levels will vary from nil to 0.833m. A new drainage line is to be installed to supplement the existing stormwater drainage in Kiaora Lane.

The design features of the shared zone will extend around the western end of the building into the new pedestrian link between Kiaora Lane and Patterson Street. This pedestrian link will not form part of the shared zone and will not be accessible to vehicles. The pedestrian link will include landscaping, in the form of plantings and recycled sandstone, lighting and bicycle storage racks.

Decorative paving is also proposed in Kiaora Road adjacent to the new retail area. Changes, mainly to accommodate access to and from the car park and the road closures, will be necessary in Anderson Street, Kiaora Road and Patterson Street.

Electrical sub-stations are to be located in the plaza (x1) and western pedestrian link (x2).

#### **4.5 Landscaping**

The arborist report submitted with the DA (*Aboricultural Impact Assessment for proposed Kiaora Lands Development*, prepared by Tree Wise Men Australia Pty Ltd and dated May 2011) assesses 72 existing trees in and adjacent to the development site. The proposal involves the removal of 41 of these trees and the retention of 31 trees. The majority of the trees to be removed are within the footprint of the proposed buildings including a number of significant London Plane trees on the existing nature strips of the sections of Anderson and Patterson Streets that are to be closed to form part of the development site.

The proposed planting of new trees includes:

- a feature shade tree (*Robinia pseudoarcacia*) in the plaza
- a row (x 7) of street trees (*Robinia pseudoarcacia* 'Frisia') on the south side of Kiaora Lane
- 2 trees (*Eucalyptus botryoides*) along the Kiaora Road frontage
- a Plane tree adjacent to Patterson Street at the southern end of the pedestrian link
- dense planting along the southern boundary at ground level and where the upper level is setback
- Lilly Pilli (x 3) in the 1<sup>st</sup> floor courtyard of the Kiaora Lane

#### **4.6 Amended plans**

Amended plans have been submitted which make changes to the roof level of the Kiaora Lane building. The amended plans accompanied the applicant's letter of 15/2/12 which also responded to earlier Council requests for additional information. In relation to the amended plans the applicant was advised by email dated 24/2/12 that additional details for the proposed roof level shade structure were required and a Replacement DA form was needed. The additional details were provided with the applicant's letter of 6/3/12. A formal Replacement DA form was submitted on 17/4/12 for the amended plans.

The applicant's letter of 15/2/12 included the following explanation regarding the amended plans:

#### *2.4 Other matters*

*The usability of the roof-top car parking areas, its configuration and access has recently been reviewed to consider its suitability for future customers, including all weather protection. As a result, the design of the roof-top car parking area has been amended by changing the car parking layout such that the car parking spaces adjacent to the travelator and its access point have been removed, and the arrival and departure landing area adjacent to the travelators has been amended so as to reduce potential crowding.*

*An alternate material is also proposed to provide protection to the roof-top car parking spaces which will provide for the collection of water and this is noted on the drawings. ....*

The amended plans increase the size of the travelator enclosure, reconfigure the car parking spaces on the main area of the roof level and provide for a single weather protective covering over the reconfigured spaces in place of the originally proposed 4 separate shade structures.

The covered area will be approximately 60m x 40m and setback approximately 11m from the southern perimeter of the roof. Construction will comprise a steel frame having a curved roof profile covered with a PVC fabric. The maximum height above the parking surface will be 3.95m (RL15.850).

The number of parking space on the roof level will be reduced by 13, from 285 to 272 bringing the proposed total number of parking spaces to 446 from 459.

A plant room on the western end of the roof level will be increased in area by about 30m<sup>2</sup>.

The amended plans were renotified to the same people who were notified of the original DA and to all people who put in written a submission in relation to the original DA. The submissions received in response to the amended plans are discussed in part 17 of this report.

## **5. SUMMARY**

<b>Reasons for report</b>	<b>Issues</b>	<b>Submissions</b>
<ol style="list-style-type: none"><li>1. To assist the Regional Panel in determining the development application, and</li><li>2. To permit the council to decide if it will make a submission to the Regional Panel. This is because under our current delegations the development application would have otherwise been referred to the DCC/Council for determination due to public interest.</li></ol>	<ul style="list-style-type: none"><li>• Public interest</li><li>• Traffic/parking</li><li>• Noise</li><li>• WLEP (amend. no. 67)</li><li>• DBDCP (amend. no. 3)</li></ul>	Forty nine (49) submissions were received. They included 42 objections and 7 in support

## **6. 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 \$65,426,432. This is consistent with the Quantity Surveyor's Certificate of Cost prepared by Rider Levett Bucknall dated 24/10/11.

## 7. DESCRIPTION OF SITE AND LOCALITY

<b>THE SITE AND LOCALITY</b>	
<b>Physical features</b>	<p>The site lies at the base of the Double Bay valley approximately 1km from the Edgecliff Railway Station and Bus Exchange and approximately 5km east of the Sydney CBD. To the north is commercial and retail development fronting New South Head Road. To the south, east and west are residential areas, comprising low scale, detached dwellings and residential flat buildings up to eight storeys in height.</p> <p>The development site comprises land that is in private and public (Council) ownership and includes parts of Anderson and Patterson Streets. The total site area is 1.4ha.</p> <p>The land to the north of Kiaora Lane is currently occupied by the existing Woolworths supermarket and has an area of 2,173m<sup>2</sup>. It has frontages of 46m to the southern side of New South Head Road and 45.5m to the northern side of Kiaora Lane.</p> <p>The land to the south of Kiaora Lane has an area of 11,867.1m<sup>2</sup> which includes 2,072m<sup>2</sup> of existing roadway in Anderson Street &amp; Patterson. It has frontages of 82m to the eastern side of Anderson Street, 69m to the western side of Anderson Street (excluding the width of Patterson Street), 159.5m to the southern side of Kiaora Lane (excluding the width of Anderson Street), 71.5m to western side of Kiaora Road, 90.8m to the northern side of Patterson Street and 45.7m to the southern side of Patterson Street.</p>
<b>Topography</b>	<p>The land is low lying and is generally level. There is a fall toward the intersection of Kiaora Road with Kiaora Lane (RL2.0 (approx.)), at the eastern end of the site. The highest RL is RL3.2 (approx.) at the New South Head Road frontage and at the western end of the carpark. The levels at the southern end of the site are RL2.5 (approx.).</p> <p>Due to the low lying nature of the land it is prone to flooding associated with storm events. This characteristic of the land will influence the design of any redevelopment.</p>
<b>Existing buildings and structures</b>	<p>The existing buildings/structures on the development site are:</p> <ul style="list-style-type: none"> <li>• a 2 storey cement rendered commercial building at 433-451 New South Head Road which accommodates the existing Woolworths Supermarket</li> <li>• bitumen carpark (x2) at 1-9 Patterson Street and 3-7 Anderson Street (total number of existing parking spaces is 145)</li> <li>• a single storey brick commercial building at the corner of Anderson Street and Kiaora Lane which accommodates auction rooms (AKA 3-7 Anderson Street)</li> <li>• a 2 storey brick and tile residential flat building at 2 Anderson Street and</li> <li>• 10 x single storey brick and tile detached dwelling houses, 1, 2, 3, 4, 5, 6 &amp; 7 Kiaora Road, 2 Patterson Street and 1 &amp; 4 Anderson Street</li> </ul>
<b>Environment</b>	<p>The site has a frontage to New South Head Road which is the main route between the City and Edgecliff to the west and Rose Bay, Vaucluse and Watson's Bay to the east. The site is on bus routes between the City (323,324, L24, 325 and 326) and Bondi Junction (327). These bus services connect with Edgecliff and Bondi Junction railway stations on the Eastern Suburbs rail line. Manning Road, in close proximity to the west of the site, is the main road route between Double Bay and Bondi Junction.</p> <p>Double Bay is serviced by Sydney Ferries with the Ferry Wharf located to the north of the business centre.</p> <p>The site is divided by Kiaora Lane (which, as previously described, is proposed as a 'shared zone') and is currently intersected by Anderson and Patterson Streets [portions of both these streets are to be closed and form part of the development site. DA346/2011 provided for the creation of a new lot formed by the portions of the roads to be closed and for the creation of easements, as may be required, for existing utilities which exist under that land. Consent was granted for DA346/2011 on 19/9/11]. Kiaora Lane is a one way street west to east, i.e. from Manning Road to Kiaora Road.</p> <p>The development site is set in an urban context that is partly commercial and partly residential. The commercial area forms the southern Double Bay business area which is on the southern side of New South Head Road between Bellevue Road to the east and Manning Road to the west. Apart from the existing public carpark, the area to the south of Kiaora Lane is characterised by low rise residential development. This is in the form of detached dwellings and multi-unit residential flat buildings. 'The President' is an 8 storey apartment building in at 2-10 Patterson Street, on the</p>

	<p>corner of Manning Road. A number of the dwellings and apartments on the eastern side of Manning Road between New South Head Road and Court Road are used as professional consulting rooms.</p> <p>To the north of the site is New South Head Road. On the opposite, northern, side of New South Head Road (between Knox and Cross Streets) there are a number of individual properties occupied by retail shops and commercial offices built to the street edge and generally of 2-3 storeys. Similar development occurs on the southern side of New South Head Road. Of particular note are the Woolworths building due to its unusually wide frontage, the adjoining heritage listed Golden Sheaf Hotel and the former Village Cinema building (currently vacant) on account of its height. Some buildings, e.g. Ligate House, Roma Arcade, Royal Arcade, incorporate ground level pedestrian arcades which provide access between Kiaora Lane and New South Head Road. There are examples of 4 storey buildings in this part of New South Head Road including Ligate House (409-411 NSH Rd), the 'Foodco' building (cnr. NSH Rd &amp; Cross St) and the building on the site formerly occupied by the Westpac Bank (cnr. NSH Rd &amp; Knox St). The Double Bay Post Office is further to the east at the intersection of New South Head Road and Bellevue/ Kiaora Roads.</p> <p>There are a number of trees on and in the vicinity of the site which form part of the locality's character. These include London Plane trees on road verges. Some are on the verges of roads to be closed and which will form part of the development site.</p>
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## 8. PROPERTY HISTORY

PROPERTY HISTORY	
Current use	Supermarket/retail, commercial, residential, public parking and roadway
Previous relevant applications	<p>DA995/2003/1 for redevelopment of Kiaora Lands (which then included the Golden Sheaf Hotel), demolition of existing buildings (excluding the Golden Sheaf Hotel) and construction of a mixed use development comprising six buildings ranging in height between three and six storeys over two levels of basement car parking. The development comprised:</p> <ul style="list-style-type: none"> <li>• A total of 133 residential apartments</li> <li>• Supermarket, retail and commercial tenancies</li> <li>• New public library</li> <li>• New bottleshop, bars, function rooms, office and hotel rooms/suites on the rear of the existing Golden Sheaf Hotel</li> <li>• Private subterranean car parking for 402 vehicles, public car parking for 323 vehicles, 3 x loading docks</li> <li>• Construction of approx., 600m<sup>2</sup> plaza and widening/upgrading of Kiaora Lane</li> <li>• Realignment of part of Patterson Street and its extension as a one-way connection to Kiaora Road, part closure of Anderson Street</li> <li>• Stratum land subdivision</li> </ul> <p>Consent was granted on 11/10/04 to DA995/2003/1. The consent lapsed on 12/10/09.</p> <p>It is understood that this scheme did not proceed due to the high cost of providing underground car parking on land with a high water table and with acid sulphate soils.</p> <p>DA346/2011 for creation of a new lot and road closure was approved by Council on 19/9/11.</p> <p>There have been numerous other development and building applications for the properties which form the development site but they are of limited relevance to the assessment of this DA.</p> <p>A major (in the context of the Double Bay commercial area) redevelopment proposal was approved by the Regional Panel on 13/12/11 on the site of the former Ritz Carlton Hotel, 33 Cross Street. This site is at the northern end of the Double Bay commercial area. This proposal was for:</p> <ul style="list-style-type: none"> <li>• demolition of the existing building from ground floor level</li> <li>• retention of the basement carpark for 154 vehicles</li> <li>• construction of a mixed use development with retail tenancies and a five (5) cinema complex for approximately 600 people on the ground and first floors levels and seven (7) levels of residential above containing 74 units (a mix of one, two and three bedrooms).</li> </ul>

Pre-DA	A preDA meeting was held on 21/6/2011, reference PreDA10/2011
Requests for additional information	<p>30/11/11 (email) seeking clarification of shoring details submitted as part of the EIS, Appendix 1; elevation shadow diagrams; and rental details for 2 Anderson Street. Shadow diagrams were submitted 7/12/11.</p> <p>22/12/11 (email) seeking clarification of FSR calculations for the New South Head Road building.</p> <p>13/1/12 'stop-the-clock' (cl.54) letter requesting information in relation to traffic, site drainage, flooding and overland flows.</p> <p>2/2/12 'stop-the-clock' (cl.54) letter requesting information in relation to noise and waste management.</p> <p>21/2/12 (email) requesting clarification regarding SEPP 1 objection for the Kiaora Lane building.</p> <p>2/3/12 (email) requesting a response to matters raised in the urban design review undertaken by Hassell on behalf of Council.</p> <p>Additional information provided by the applicant consists of:</p> <ul style="list-style-type: none"> <li>17/2/12 letters from TPG dated 15/2/12 and 17/2/12 responding to Council's requests of 30/11/11, 22/12/11 and 13/1/12</li> <li>12/3/12 letter from TPG dated 6/3/12 responding to Council's requests of 2/2/12 and 21/2/12</li> <li>28/3/12 letter from <b>nettleton</b>tribe responding to the matters raised in the independent urban design review undertaken on Council's behalf by Hassell</li> <li>19/4/12 a Report on Supplementary Contamination Assessment by Douglas Partners dated April 2012</li> <li>9/5/12 (hard copy) Remediation Action Plan by Douglas Partners dated April 2012</li> </ul>
Amended plans/ Replacement Application	<p>Received 17/2/12 – changes to the roof level parking accommodation including structures to provide weather protection to carparking spaces (in lieu of originally proposed shade structures) and pedestrian access; overall reduction of 13 car parking spaces.</p> <p>The amended plans were accompanied by additional information (FSR, traffic, site drainage, flooding and overland flows) in response to earlier requests.</p> <p>The applicant advised Council by email dated 21/3/12 that it wanted the DA to be processed <b>without</b> the amendment to the roof top parking level. The applicant later advised that it wished the proposal to be considered on the basis of the amended plans and a Replacement DA was formally submitted on 17/4/12.</p>
Land & Environment Court appeal	nil

## 9. REFERRALS

### 9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Development Engineer	<p>A Referral Response was received from Council's Technical Services dated 28/3/12 in relation to <b>Site drainage/flooding general, Site drainage, Flooding and overland flow, Construction management, Traffic, Impacts on Council infrastructure, Vehicle access and accommodation, Geotechnical, hydrogeological and/or structural</b>. The following is an extract from the Referral Response. See the annexure for the full response.</p> <p><i>Comments have been prepared on the following. Where Approval is recommended, Conditions of Consent follow at the end of the comments.</i></p>	<p><b>Annexure 2</b> (Technical Services 28/3/12)</p> <p><b>Annexure 2A</b> (Manager- Engineering Services) 18/5/12)</p>

	<p><b>Site Drainage/Flooding general comments</b></p> <p><i>There is an apparent conflict between the Flooding, Stormwater Report by Worley Parson, the Stormwater Drainage Concept Design by Warren Smith &amp; Partners and the Kiaora Lane Concept Plan (Civil) by BG&amp;E. These are:</i></p> <ul style="list-style-type: none"> <li><i>The Flooding, Stormwater Report by Worley Parson dated 27 Oct 2011 Figure 1 shows two new drainage systems, one down Kiaora Lane (2 x 600x 300) and 2, 3, 4, &amp; 5 x 600 x 300 culvert and overland flow through the proposed development with connection to Sydney Water stormwater channel</i></li> <li><i>The Stormwater Concept Design by Warren Smith &amp; Partners Dwg No H-07 Issue 03 dated 18.10.11 shows only property connections to the existing pipeline in Kiaora Lane with a new 25m long extension up the lane. Outlets to Kiaora Road to be rationalised and connected directly to pipe system.</i></li> <li><i>Civil Plans by BG&amp;E Dwg No SKC03 Rev B dated 16.11.11 show a new pipe network in the road in Patterson St dog leg through the development along the western and southern boundaries then along Anderson St connecting to the existing system in Court Road –no long sections provided</i> <i>A plan and long section of culvert 2 x 600 x 300 is shown down Kiaora Lane from ch 00 to connect to existing channel – no inlet structures are shown</i></li> </ul> <p><i>These issues are to be resolved and revised plans submitted to Council with the S138 Roads Act application for assessment and approval. Amended plans are to be certified by the authors of the flood report that they satisfy their requirements</i></p> <p><b>Site Drainage comments</b></p> <p><i>The Stormwater Drainage Concept Design by Warren Smith &amp; Partners Dwg No H-01 to 07 Issue 03 dated 18.10.11 are to be amended to include:</i></p> <ul style="list-style-type: none"> <li><i>New pipe extension is to be located under the proposed dish gutter with grates over</i></li> <li><i>Drainage long section of pipe extension in Kiaora Lane</i></li> <li><i>All drainage outlets are to be rationalised and the number reduced in Kiaora Rd and Kiaora Lane with direct connection to the new and existing pipe systems</i></li> </ul> <p><i>Kiaora Lane Concept Plan (Civil) by BG&amp;E Dwg No SKC01 to 06 Rev B dated 24.10.11 is to be amended to include:</i></p> <ul style="list-style-type: none"> <li><i>The 300mm dia pipeline as shown on plan SK03 RevC dated 16.11.11 is to be increased to a minimum of 375mm RCP</i></li> <li><i>The new drainage system is to connect to Council's existing drainage system in Court Road. The impact of the additional water on Council's drainage system is to be assessed and the system upgraded if necessary.</i></li> <li><i>Details of inlets structures to be provided.</i></li> </ul> <p><i>The design concept plans by Warren Smith &amp; Ptrs and BG&amp;E are to be consistent with each other and the flood study.</i></p> <p><i>Further, advice from Council Drainage Engineer is as follows:</i></p> <p><i>“Reference is made to the submission by BG&amp;E PL Ref: S100016-LTR-GS001.DOCX dated 25 January 2012 and the following comments are made:</i></p> <p><b>Rain gardens</b></p>	<p><b>Annexure 2B</b> (Manager Engineering Services 9/01/12)</p>
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	<p><i>The development is to make use of the proposed landscape garden areas as bio retention areas or “rain gardens” The rain gardens are to be designed by an engineering practitioner experienced in water sensitive urban design (WSUD). The design is to be based on the Sydney Metropolitan Catchment Management Authorities WSUD interim reference guidelines.</i></p> <p><i>The rain gardens are to be designed to treat the first flush of stormwater runoff from the rooftop parking area. The rain gardens are to be integrated into the proposed storm water treatment system to achieve maximum benefit to the stormwater treatment process.</i></p> <p><b><i>Pervious Paving/ inlet traps</i></b></p> <p><i>Council will not permit the use of pit inlet traps in Council Public road. The use of “heelguard” grates as the alternative to prevent larger litter entering the drainage system is preferred. But notes (Paragraph 2) the use of “heelguard” grates which have less inlet capacity will be required to larger surface areas to match the inlet capacity of the originally proposed grates, full details of calculations are to be submitted.</i></p> <p><i>Council further suggests that the use of permapave pit grates be further investigated as they may be better suited to this location.</i></p> <p><b><i>Flooding and overland flow</i></b></p> <p><i>The submitted details of the Barrier Fence configuration as shown on Dwg No. CSK001 Rev A by BG&amp;E dated 25.01.12 designed to protect the channel from becoming blocked with debris is satisfactory.</i></p> <p><i>The requirements above are condition accordingly.</i></p> <p><i>The concept plan is subject to the submission and approval of Stormwater Management Plan for the site prior to release of the Construction Certificate. Details are to be in accordance with Council’s Draft Stormwater Development Control Plan and Local Approvals Policy. This is to ensure that site stormwater is disposed in a controlled and sustainable manner - Conditions applied.</i></p> <p><i>Council’s Technical Services Division is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop and complies with the provisions of Clause 25 (2) of WLEP 1995</i></p> <p><b><i>Flooding &amp; Overland Flow comments</i></b></p> <p><i>A Flood Impact Assessment Report by Worley Parsons dated 27/10/2011 has been submitted to Council in order to address flooding issues. The Report determined that the flood levels in a 1 in 100 year storm event to be 2.9m AHD and recommends a retail floor level of 3.2m AHD. Council’s Drainage Engineer has made the following comments:</i></p> <p><i>“The flood impact assessment prepared by Worley Parsons has been prepared using methods that are acceptable to Council”.</i></p> <p><i>As such, Council’s Technical Services is satisfied with the retail flood protection measures.</i></p> <p><i>However, the architectural plans identify that the car-park floor level has a varying floor level ranging between 2.3m AHD and 2.8m AHD which corresponds to flood water depths of up to a maximum of 600mm.</i></p> <p><i>The Report has identified that the flood hazard in the area is generally low with exception of the intersection of the Kiaora Lane and Kiaora Road.</i></p> <p><i>It is noted that blockage in the open stormwater channel (SWC) has been</i></p>	
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	<p><i>factored into the flood level assessment. However, any additional blockage above the factored levels will increase the flood levels and subsequent hazards.</i></p> <p><i>The nature and size of the development will intensify the use of the area. Vehicles and debris from the car-park and surrounding area will flow to the SWC causing additional blockage. As such, the applicant is required to take all reasonable steps to ensure public safety.</i></p> <p><i>Council's Drainage Engineer has made the following comments:</i></p> <p style="padding-left: 40px;"><i>"Water depths of over 300mm can cause vehicles to float which will cause the area to become hazardous. This needs to be addressed when the detailed emergency management plan is produced".</i></p> <p><i>A recommendation of the Double Bay Flood Risk Management Study and Plan is to construct a strong flow-through fence at the high risk location. The fence is needed to reduce the potential of the open Sydney Water Channel blocking. In response to this BG&amp;E have provided details of the Barrier Fence configuration as shown on Dwg No. CSK001 Rev A by BG&amp;E dated 25.01.12 and is satisfactory. The fence is to be 75m long and constructed along the edge of the Kiaora Road SWC. The applicant is to liaise with Sydney Water for these works</i></p> <p><i>The submission of a detailed emergency response and evacuation management plan is to be produced prior to occupation, including flood signage and flood proof materials – conditions applied.</i></p> <p><b><i>Construction Management comments</i></b></p> <p><i>A Construction Management Plan prepared by Caverstock Group dated 15 November 2011 has been submitted and assessed by Council's Manager Engineering Services (Copy attached). There are generally no objections to the CMP subject to conditions.</i></p> <p><i>Due to the lack of on-street parking availability a Work Zones will be required from Council during construction. Appropriate conditions have been applied.</i></p> <p><b><i>Traffic comments</i></b></p> <p><i>Comments were provided by Council's Manager-Engineering Services by memorandum dated 18/5/12. The comments relate to existing, previous and proposed development, parking, traffic generation, traffic generation impacts, intersection analysis, NSH Rd/Kiaora Rd/Cross St/Bellevue Rd, NSH Rd/Manning Rd, RMS comments, residential amenity, Manning Rd/Patterson St, Kiaora Rd/carpark entrance, queuing analysis, sensitivity analysis, loading dock and heavy vehicles, access to the smaller loading dock, bicycle and motorcycle parking, shared zone, community comments, NSW Police, and BIKEeast.</i></p> <p><i>The comments include the following recommendation:</i></p> <p><i>Traffic generation associated with this development will have a significant impact on the surrounding community. This impact must be ameliorated and therefore this development can only be recommended for approval if the following measures are undertaken in conjunction with the development:</i></p> <ul style="list-style-type: none"> <li><i>• Design for a fourth phase and associated infrastructure at the intersection of New South Head Road/ Kiaora Road/ Bellevue Road/ Cross Street in accordance with RMS requirements</i></li> <li><i>• Design for an extended eastbound right turn storage bay at the intersection of New South Head Road/ Manning Road in accordance with</i></li> </ul>	
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	<p><b>RMS requirements</b></p> <ul style="list-style-type: none"> <li>• Installation of a roundabout at the intersection of Manning Road and Patterson Street</li> <li>• Installation of an “intersection” treatment on Kiaora Road, at the car park and loading dock entrances</li> <li>• Modifications to the Kiaora Road entry such that there are two internal boom gates</li> </ul> <p>See <b>annexure 2A</b> for full comments and <b>conditions A.5, C.1o), C.4, C.31, C.40, F.31-40, I.28 &amp; 29.</b></p> <p>Further report was provided by Council’s Manager – Engineering Services relating to the Construction Management Plan, see <b>Annexure 2B.</b></p> <p><b><i>Impacts on Council Infrastructure comments</i></b></p> <p><i>New road, drainage and public domain works are proposed for the street network in Kiaora Lane, Kiaora Road, Patterson Street and Anderson Street including all associated level adjustment and service adjustments</i></p> <p><u><b>Kiaora Lane</b></u></p> <ul style="list-style-type: none"> <li>• Roadworks – Full width road reconstruction, K&amp; G, dish footpath and level adjustment for the length of the development from about the eastern boundary of No 11 Patterson Street to Kiaora Road. Replacement K&amp;G and footpath on the north side from the development to Manning Road</li> <li>• Plaza – construction of all public domain assets</li> <li>• Drainage- Construction of drainage and pits and connections to the existing drainage line. Box culvert construction for the full length</li> </ul> <p><u><b>Kiaora Street</b></u></p> <ul style="list-style-type: none"> <li>• Roadworks - road shoulder reconstruction, Replacement of K&amp; G and footpath for the length of the development, long section for driveways.</li> <li>• Drainage – new pipe connections and pipeline upgrades across Kiaora Road</li> </ul> <p><u><b>Patterson Street</b></u></p> <ul style="list-style-type: none"> <li>• Roadworks - road pavement, K&amp; G, driveways and new footpath on south side.</li> <li>• Drainage – new 375mm Dia RCP pipeline and pits</li> </ul> <p><u><b>Anderson Street</b></u></p> <ul style="list-style-type: none"> <li>• Roadworks - K&amp; G and driveways.</li> <li>• Drainage – new 375mm Dia RCP pipeline and pits.</li> </ul> <p><u><b>General</b></u></p> <ul style="list-style-type: none"> <li>• There is conflict between the Flooding, Stormwater Report by Worley Parson, the Stormwater Drainage Concept Design by Warren Smith &amp; Partners and the Kiaora Lane Concept Plan (Civil) by BG&amp;E. These drainage conflicts are to be resolved and revised plans are to be prepared and submitted to Council.</li> <li>• Pavement design details</li> <li>• Dilapidation reports will be required on the adjoining road network that will be affected by construction equipment.</li> <li>• All the above works will be subject to the submission and approval by Council of a S138 Roads Act application.</li> </ul> <p><b><i>Vehicle Access &amp; Accommodation comments</i></b></p> <p>See Traffic Engineer’s comments dated 03 January 2012 (this relates to an email requesting that the applicant provide additional information to enable a proper assessment)</p> <p><b><i>Geotechnical, Hydrogeological and/or Structural comments</i></b></p> <p>A Hydrogeological Report prepared by Coffee Geosciences P/L Ref</p>	
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	<p><i>E12616/1-BY dated 16 October 2003 has been submitted in support of the application. The proposal involves minimal excavation for lift overrun, drainage and service trenches. No dewatering of the site is proposed or approved</i></p> <p><i>Council's Technical Services has no objection to the limited excavation on technical grounds.</i></p> <p><b>Other comments</b></p> <p><i>Due to the likelihood of additional power usage as a result of the new development, Energy Australia has requested that the applicant contact them with regards to the possible provision of a new Electricity Substation on site.</i></p> <p><i>The requirement as set out in the letter from Sydney Water dated 10 February 2012 are to be complied with – conditions applied</i></p> <p><b>RECOMMENDATION</b></p> <p><i>Council's Development Engineer has determined that the proposal satisfies Technical Services concerns, subject to the following conditions. Accordingly, the following conditions are recommended.</i></p> <p><b>(Refer to conditions C.4, 16, 18-20, D.5, 6, 9 &amp; 10, E.23 &amp; 24, H.3 &amp; 4 &amp; I.3)</b></p>	
<b>Landscaping Officer</b>	<p>Comments were provided by Council's Tree &amp; Landscape Officer by Referral Response dated 12/1/12. The comments include the following:</p> <p><b><u>Species selection within Kiaora Lane and Kiaora plaza area</u></b></p> <p><i>An alternative tree species to Robinia pseudoacacia 'Fiesia' should be selected as the dominant tree planting along Kiaora Lane and as the single specimen shade/feature tree in the Kiaora plaza area.....</i></p> <p><b><u>Tree planting within Kiaora Lane to occur in tree pits within the road as opposed to raised planter boxes.</u></b></p> <p><i>The use of raised planter boxes for tree planting in Kiaora Lane as shown on the photomontage drawings (3D renderings 3109_DA_061-C) should not occur. The desired outcome for undertaking tree planting along Kiaora Lane should be to enable trees to grow to dimensions large enough to maximise shade and softening of the hard landscape context. This will only occur if proposed tree plantings are undertaken within road tree pits as shown on Landscape drawing LSK 09582-010E. ....</i></p> <p><b><u>Proposed removal of trees Tree 4, 33 and 34 listed as trees to be retained within the Kiaora lands Development Control Plan strategy to retain the tree lined character of streets on and surrounding Kiaora lands.</u></b></p> <p><i>There is some inconsistency between trees scheduled for removal on the submitted landscape plan and the tree removal/retention schedule and trees listed as those that should be retained within the Double Bay/Kiaora lands Development Control Plan's strategy to retain the tree lined character of streets on and surrounding Kiaora Lands (A2.3.2.6). Specifically, Tree 1 within the Double Bay DCP schedule (*listed as Tree 4 within the submitted arboricultural report), Tree 9 (*listed as Tree 33 within the supplied arboricultural report) and Tree 10 (*listed as tree 34 within the supplied arboricultural report) are all listed as trees to be removed on the submitted landscape and tree retention/removal plan.</i></p> <p><i>All of the London Plane trees located in Patterson and Anderson Streets were tested for internal decay in 2003. A number of these trees were recommended for removal either immediately or within the following 10 years. Tree 4 which is listed as a tree to be retained within the Kiaora lands development control plan strategy was recommended for removal within the following 10 years in the 2003 report. This tree is located at the proposed main Patterson Street entrance into the development. There is no argument regarding the</i></p>	<b>Annexure 3</b> (Trees & Landscaping)

	<p>contribution all of the London Plane trees make to the overall amenity and character of the precinct. However, this tree's existing location in relation to the proposed Patterson Street vehicle entrance would make it extremely difficult to retain unless significant modifications were made to the development, specifically the re-location of the Patterson Street vehicle entrance. <u>In light of the 2003 recommendation to remove the tree within the next 10 years and the proposed location of the Patterson Street vehicle entrance, regardless of its listing within the Kiaora lands Development Control Plan strategy schedule as a tree to be retained this tree should be removed as per the tree removal/retention plan.</u></p> <p>Similarly, tree numbered 34 within the submitted arboricultural assessment report is listed as Tree 10 within the Double Bay Development Control Plan strategy as a tree to be retained. This tree, similar to the London Plane tree in Patterson Road (Tree 4), stands at the entrance to the proposed Kiaora Road loading dock and would be very difficult to retain unless significant modifications to the design of the proposal were made.</p> <p>On the other hand tree listed as Tree 9 within the Double Bay Development Control Plan strategy (listed as Tree 33 on the submitted tree retention/removal plan) can be retained and protected in accordance with the recommendations within the supplied arborist's report. <u>In this regard an amendment should be made to the supplied tree retention/removal plan which includes the retention of Tree 33.</u></p> <p><b>RECOMMENDATIONS</b> Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the following Conditions of Consent.</p> <p><b>(Refer to conditions B.3, C.9, 10-13, D.8, E.9-11 &amp; I.1)</b></p>	
<b>Environmental Health Officer</b>	<p>Comments were provided by Referral Response dated 31/1/12 (review date) on Site Contamination – SEPP 55 Remediation of Land; Acid Sulfate Soils; Acoustic Assessment; and, Food Premises. The following are extracts from the Referral Response. See Annexures for full comments.</p> <p><b>ACID SULFATE SOILS</b></p> <p><i>On the basis that the development site is underlain with Acid Sulfate Soils, it is recommended that if approval is granted for the proposed development, the following <b>draft condition</b> be included;</i></p> <p><i>The management options resulting from the disturbance of potential acid sulfate soils detailed in Section 5 'Proposed Acid Sulfate Management Strategy' &amp; Section 6 'Responsibilities' of the report prepared by Douglas Partners titled 'Updated Report on Acid Sulfate Soil Management Plans: Kiaora Place, Double Bay (Project No. DIH:jib36280.02-3, 18 February, 2010)' being fully implemented during the excavation and construction phase of the development. (see condition E.31)</i></p> <p><b>ACOUSTIC ASSESSMENT</b></p> <p><i>The development is a large scale commercial development in close proximity to numerous residential properties. There is a high potential for operational activities of the development to give rise to noise, as identified by the above assessment and it will be necessary to ensure that the proposal either does or can, by condition, comply with numerous controls contained in the Double Bay Centre Development Control Plan 2002 before development consent can be granted.</i></p> <p><i>Accordingly, depending on how the Acoustic Consultant responds to the items listed below, it may be necessary to have the final acoustic report peer reviewed by a suitably qualified acoustic engineer.</i></p>	<p><b>Annexure 4</b> (Health 31/1/12)</p> <p><b>Annexure 4A</b> (Health 26/3/12)</p> <p><b>Annexure 4B</b> (Health 23/4/12)</p> <p><b>Annexure 4C</b> (Health 23/4/12)</p>

	<p><i>Alternatively, an independent acoustic engineer may need to be engaged by Council to ensure that any development consent conditions are achievable and will ensure the development fully satisfies the applicable acoustic controls, thereby minimising any amenity impact on the surrounding area.</i></p> <p><i>With regard to the Reverb Acoustic Report titled 'Noise Impact Assessment: Kiaora Lands Redevelopment, new South Head Road and Kiaora Lane, Double Bay NSW' (Report No. 11-1605-R1 and dated November 2011) it is considered that it has not addressed all issues with regards to the potential acoustic impact of the development. Furthermore, not all remedial measures that could be implemented have been specifically described in the report.</i></p> <p><i>Therefore, before further consideration can be given to the acoustic assessment of the development the following items need to be addressed by the Acoustic Consultant;</i></p> <p>(the referral response listed 17 items which needed to be addressed, see annexure 4 for details)</p> <p><b>3.4 <u>Miscellaneous Provisions and Associated Environmental Health Conditions</u></b></p> <p><i>Having regard to the following heads of consideration;</i></p> <ul style="list-style-type: none"> <li>• <i>Food Premises</i></li> <li>• <i>Light &amp; Ventilation</i></li> <li>• <i>Maintenance of Environmental Controls</i></li> <li>• <i>Erosion &amp; Sediment Controls</i></li> <li>• <i>Disposal of site waters</i></li> <li>• <i>Dust Mitigation</i></li> <li>• <i>Operation of Regulated Systems</i></li> <li>• <i>Site Waste Minimisation &amp; Management.</i></li> </ul> <p><i>it is recommended that the following Environmental Health conditions be imposed on any development consent for the subject proposal;</i> (see conditions C.22, E.4, 12, 15, 16, 21, 22, 25-27, F.6, 7, 12, I.2, 10 &amp; 14)</p> <p>Council wrote to the applicant on 2/2/12 requesting that the 17 items relating to the acoustic assessment be addressed. In response the applicant submitted additional information on 12/3/12 including an addendum dated 1/3/12 to the acoustic report by Reverb. Comments were provided on the addendum by Council's Environmental Health Officer on 26/3/12, see annexure 4A and part 15 – Impacts, of this report. As a result of the comments the applicant was asked by email dated 29/3/12 to assess the noise impacts on Court Road, Patterson and Anderson Streets using the criteria for local roads rather than the criteria for sub-arterial roads. In response a letter was received from Reverb Acoustics dated 30/3/12. Council's Environmental Health Officer provided comments on 5/4/12 including:</p> <p><i>..... it has been demonstrated that traffic movements along Court Road and Patterson Street will comply with both the day time and night time noise criterion of 'Local Roads' as presented in Table 3 of the NSW Road Noise Policy.</i></p> <p><i>..... It is recommended that noise assessment calculations be provided to Council for Anderson Street using the Local Roads criterion (NSW RNP) for day time and night time periods based on predicted car and truck movements during such times; .....</i></p> <p>By email dated 5/4/12 the applicant was requested to provide noise assessment calculations for Anderson Street.</p> <p><b>SITE CONTAMINATION</b></p>	
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	<p>Regarding contamination additional documentation was submitted by the applicant, a <i>Supplementary Contamination Report</i> and a <i>Remediation Action Plan</i>, both prepared by Douglas Partners and dated April 2012. Referral comments were provided on 23/4/12 (see Annexures 4B and 4C). In relation to the <i>Supplementary Contamination Report</i> the comments included:</p> <p><i>Based on the results of the investigation, it is considered that there is a low risk of widespread or significant soil contamination associated with the current site features and current and past site activities. However, minor remedial works will be required in the vicinity of BH302 and BH305 to render the site suitable for the proposed commercial development. Further, the road pavement/asphalt profile present over Anderson and Patterson Street is also considered to be unsuitable for reuse or recycling.</i></p> <p><i>Conclusion</i> <i>Based on the results of the current assessment, it is considered that the site can be rendered suitable for the proposed development, subject to the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Revision of the existing RAP ('cap &amp; contain') to address the identified B(a)P contamination in the filling at BH302 and BH305. In view of the proposed development plan, wherein the existing building will be demolished along with minor excavations, it is considered that the excavation, off-site disposal and subsequent validation of the remedial excavations would be a suitable and practical remediation option;</i></li> <li>• <i>Remediation and validation of the site in accordance with the RAP; and</i></li> <li>• <i>Preparation of a validation report at the completion of remedial works to demonstrate compliance with a RAP.</i></li> </ul> <p>Conditions are recommended for the preparation of a remedial action plan, validation monitoring and preparation of an Environmental Management Plan. <b>(Refer to conditions D2-4)</b></p>	
<b>Heritage Officer</b>	<p>Council's Heritage Officer provided a Referral Response dated 10/2/12. Its conclusion and recommendation are as follows:</p> <p><i>Conclusion</i> <i>The application is generally acceptable as it complies adequately with the relevant provisions of those statutory and policy documents associated with the site.</i></p> <p><i>Recommendation</i></p> <ol style="list-style-type: none"> <li>1. <i>The plant rooms atop the library/retail building are to be located at least 3 metres away from the side boundaries.</i></li> <li>2. <i>Stone walling from the Kiaora Road front boundary walls of nos. 1 -7 Kiaora Road is to be salvaged and reused. Suitable location and arrangement is to be approved by Council's Heritage Officer.</i></li> <li>3. <i>Davis Cup plaque to be retained and relocated as noted on plans. Exact location to be approved by Council's Heritage Officer.</i></li> <li>4. <i>Interpretive plaque to be designed and produced for the site of the 'Old Telephone Exchange' building, of brass, with image of the main building elevation, and relevant text with raised lettering. Exact details and location as noted on plans to be approved by Council's Heritage Officer.</i></li> <li>5. <i>Archival recording will be required of all of the buildings proposed to be demolished in accordance with the industry standards for archival recording. Archival records to be submitted prior to Construction Certificate and to the approval of Council's Heritage Officer.</i></li> </ol> <p><b>(Refer to conditions C.1a, E.20, F27 &amp; 30)</b></p>	<b>Annexure 5</b> (Heritage 10/2/12)
<b>Urban Design Planner</b>	<p>Council engaged Hassell Limited to prepare an independent urban design comment on the proposal, <i>Kiaora Lands redevelopment _ urban design review</i>, January 2012. That review concludes as follows:</p> <p><i>The Kiaora Lands Redevelopment proposal presents a high quality</i></p>	<b>Annexure 6</b> (Hassell January 2012)

	<p><i>development which responds to the site's unique context and character, and will significantly enhance Double Bay as a retailing and community hub. In accordance with the site specific planning provisions of the WLEP and DBCDCP, the proposal incorporates a number of public spaces and linkages which will benefit the locality and results in a development which is in keeping with the scale of the established built form.</i></p> <p><i>As identified through the Urban Design Assessment, there are a number of design aspects which warrant further consideration in order to enhance the relationship of the building with its surrounds and to optimise the quality of new and existing public spaces. It is therefore recommended that the proposal be amended to incorporate the following design revisions:</i></p> <ul style="list-style-type: none"> <li><i>_ Façade treatment of the western elevation of the Library Building be reviewed to minimise its visual intrusion and that the plant be setback from the western boundary as to not be visible from the public domain.</i></li> <li><i>_ Levels 2 and 3 of Library be set back to comply with the 32 degree angle line in order to provide sufficient solar access and amenity to the new public space on Kiaora Lane.</i></li> <li><i>_ Façade detail of the western elevation to the Supermarket Building be revised to minimise visual bulk and provide a more sympathetic response to the suburban character of Patterson Street and to preserve the amenity of 4 Patterson Street. In addition, greater landscaping should be provided along this streetscape (i.e. adjacent to the car park egress to soften the appearance of this façade.</i></li> <li><i>_ Additional safety measures be provided along the pedestrian link between Kiaora Lane and Patterson Street, such as CCTV and prominent lighting.</i></li> <li><i>_ The substation area on the pedestrian link between Kiaora Lane and Patterson Street be enclosed and further integrated into the design of the building. The redesign should seek to increase the width of the pedestrian link as much as possible.</i></li> </ul> <p><i>Subject to the inclusion of design amendments to address the issues listed above, it is considered that proposal is acceptable from an urban design perspective.</i></p> <p><b>Nettleton</b>tribe responded by letter dated 28/3/12 and TPG responded by letter dated 30/3/12 (the library levels 2 &amp; 3) to the above matters. The responses are discussed in relation to the relevant provisions of the Double Bay Centre DCP, see part 13.1 of this assessment report.</p>	
<b>Fire Safety Officer</b>	<p>Council's Fire Safety Officer provided a Referral Response dated 12/12/11. Its recommendation is as follows:</p> <p><i>Recommendation</i> <i>Due to the proposed development containing two new buildings the application of Clause 93 or 94 of the Environmental Planning &amp; Assessment Regulation 200 is not applicable</i></p> <p><i>The fire safety report in the Pre DA assessment gives an overview of the size of the building, rise in storeys and what will generally be required within the buildings in relation to fire measures.</i></p> <p><i>The BCA Logic report in the Development Application lists non compliances with the deemed-to-satisfy provisions of the BCA. It proposes that an alternative solution will have to be commissioned. The fire engineered alternative solution must comply with the relevant performance requirements of the BCA. The A1 accredited principle certifier appointed for the job will have to review and determine if the alternative solution complies prior the</i></p>	<b>Annexure 7</b> (Fire 12/12/11)

	<p><i>issuance of a Construction Certificate.</i></p> <p><b>(Refer to advising K25)</b></p>	
<b>Community Services</b>	<p>Council's Manager-Library &amp; Information Services provided a Referral Response dated 19/1/12. It states that the design of the library in the DA is in accordance with the DCP and the guidelines presented in <i>People Places, State Library of NSW</i> for desirable site characteristics for a public library building in NSW. It also discusses community benefits.</p> <p>No conditions are recommended or arise from this referral response.</p>	<b>Annexure 8</b> (Community Services 19/1/12)
<b>Manager-Civil Operations (waste)</b>	<p>Council's Manager-Civil Operations provided a Referral Response dated the 22/12/11 in relation to the waste management plan. It comments as follows:</p> <p><i>2.0 This section refers to the calculations for the amount of waste that will be generated by the occupants of the site. It must be noted that the calculations on the retail outlets are insufficient if these outlets are predominantly food based retailers. Therefore the number of bins allocated to them and the areas provided to house them will also be insufficient.</i></p> <p><i>3.1.3 States that retail outlets on the ground floor located in Kiaora Lane will have bins located in Kiaora Lane. Clarification needs to be sought on whether or not these bins are to be housed in a section out of view from all users of the site as it is not permissible to have bins stored on public land on a permanent basis or in view of other users.</i></p> <p><i>3.2 States that the retail, library and office area fronting New South Head Road will have individually labelled bins located in Kiaora Lane. Clarification needs to be sought on whether or not these bins are to be housed in a section out of view from all users of the site as it is not permissible to have bins stored on public land on a permanent basis or in view of other users.</i></p> <p><b>NOTES:</b> <i>If these bins are to be housed in the waste areas located at either end of the site, how are the tenants expected to get their waste to these locations?</i></p> <p><i>3.4 States that a waste caretaker will need to be employed to manage the garbage system. This will need to become a condition of consent as the planned waste management system will not be effective without this permanent position.</i></p> <p><b>GENERAL:</b> <i>The entire waste management plan is based upon Woollahra Council providing a twice a week service for the collection of garbage, with the majority of the garbage collection to be carried out using 1500L and 1000L MGB's, plus co-mingled recycling and separate paper recycling.</i></p> <p><i>It is important to note that Woollahra Council does not have the capability to provide a collection service for 1500L and 1000L MGB's. The Council is also unable to provide a co-mingled recycling service to trade customers.</i></p> <p><i>It will therefore be necessary for the applicant to have a total waste disposal contract with an external provider in place prior to the development commencing to operate. The Waste Management Plan needs to be revised accordingly.</i></p> <p>Council wrote to the applicant on 2/3/12 requesting additional information including information relating to the above comments. On 12/3/12 the applicant submitted a revised Waste Management Plan prepared by JD Macdonald dated February 2010. By email dated 20/3/12 Council's Manager – Civil Operations advised that the revised Waste Management Plan was satisfactory provided waste from ground floor retail outlets is collected from the refuse areas and not from Kiaora Lane. This can be included as a condition</p>	<b>Annexure 9</b> (Waste 22/12/11)

	of any consent. (see <b>conditions C.5 &amp; I.4</b> )	
<b>Compliance Officer (signage)</b>	<p>Council's Compliance Officer provided a Referral Response dated 26/3/12 relating to proposed signage. It includes the following consideration and recommendation:</p> <p><i>Consideration</i></p> <p><i>Double Bay DCP 2002 - Part 6.4.6 Signage &amp; Advertising</i></p> <p><i>Control C1 requires signage to be integrated with the building design. Signs 11 and 26 do not comply with this control. Projecting wall signs and above awning signs are generally not encouraged. However, signs 23 and 26 are building identification signs for the library which may be permitted by Control C3. Sign 11 is a business identification sign and there will be no disadvantage if the projecting wall sign is deleted, given the number of other above awning flush wall signs on the development.</i></p> <p><i>Control C9 of the Double Bay DCP states that advertising which is not related to the business being conducted from the premises is not permitted. Proposed signs 3 &amp; 4 are not located on the part of the premises occupied by Woolworths or Dan Murphy's. However, this is a major development encompassing the Woolworths supermarket, Dan Murphy's Liquor and Thomas Dux Grocer within one complex. These brands are part of Woolworths Ltd. In the circumstances, the positioning of the signs is satisfactory.</i></p> <p><i>Sign 24 does not strictly comply with Control C9. However, as the retail development has no exposure to New South Head Rd, with the supermarket being accessed from Kiaora Lane and the sign is located over the entrance to the walk-through arcade to the supermarket, the location of the sign is satisfactory.</i></p> <p><i>Control C7 limits servicing and delivery signs to 0.35m<sup>2</sup>. Signs 7 and 18 do not comply at 0.55m<sup>2</sup>. However, given the scale of the development, the minor difference is satisfactory.</i></p> <p><i>To satisfy the principles of Part 6.4.6, signs 16 and 17 (which comprise four signs of various sizes) should be integrated into one sign as depicted in photomontage 3109 DA 21-C.</i></p> <p><i>Sign 5 is satisfactory subject to the sign being located wholly within the boundary of the site.</i></p> <p><b>SEPP 64</b></p> <p><i>Subject to the above modifications, the proposal satisfies the objectives of SEPP 64 and the assessment criteria set out in Schedule 1 of the policy.</i></p> <p><b>Recommendation</b></p> <p><i>Approval subject to the following conditions:</i></p> <ol style="list-style-type: none"> <li><i>1. The illuminated pylon sign on the east elevation (Kiaora Rd) must be located wholly within the boundary of the site.</i></li> <li><i>2. The vertical projecting wall sign on the Kiaora Lane elevation shall be deleted from the plans.</i></li> <li><i>3. The four illuminated flush wall signs on the west elevation, advertising Woolworths, Dan Murphy's, Thomas Dux and Parking, must be integrated into one sign as depicted in photomontage 3109 DA 21-C.</i></li> </ol> <p>(see <b>conditions C.1k</b>) &amp; <b>F.15</b>)</p>	<b>Annexure 10</b> (Signage 26/3/12)
<b>Team Leader – Environment &amp; Sustainability</b>	<p>Council's Team Leader – Environment &amp; Sustainability provided a referral response dated 30/1/12. The response makes an assessment of the proposal in the context of the Double Bay Centre DCP, section 6.6 <i>Sustainable design principles</i> and Appendix 2: Kiaora Lands , A2.5.9 <i>Environmentally sustainable design</i>.</p> <p><b>Comments</b></p>	<b>Annexure 10A</b>



	<p><i>The Green Star Rating system can NOT be used to assess the Kiaora lands development as there is currently no Green Star rating tool for mixed use buildings or Supermarkets.</i></p> <p><i>The submitted ESD review prepared by AECOM includes the results of an assessment of the relative energy and water consumption of the Kiaora Lands project against the NABERS (National Australian Built Environment Rating System) Retail and Office Energy and Water Rating Tools.</i></p> <p><i>NABERS (National Australian Built Environment Rating System) is a performance-based rating system for buildings. NABERS rates a commercial office, hotel or residential building on the basis of its measured operational impacts on the environment.</i></p> <p><i>The development proposal is satisfactory in terms of ESD subject to compliance with the Conditions of Consent outlined in this referral response.</i></p> <p><b>ISSUES</b></p> <ul style="list-style-type: none"> <li><i>Amendments are required to the Landscape Plan, Stormwater Plan, and Hydrological Plan to include Water Sensitive Urban Design (WSUD) elements such as permeable onsite drainage, permeable tree pits, landscaped infiltration beds, bioretention systems and raingardens.</i></li> <li><i>Further detail is required regarding proposed rainwater tank connections to downpipes and connections to end uses such as toilets and pumping station/s for irrigation systems.</i></li> <li><i>Further detail is required regarding plant space for office air conditioning in supermarket building.</i></li> <li><i>Further detail is required regarding location and size of gas driven HVAC equipment for both buildings.</i></li> <li><i>Amended Landscape Concept Plan required- see Condition C.1.</i></li> <li><i>Amended Stormwater Concept Plan required- see Condition C.2.</i></li> <li><i>Amended Hydrological plan required – see Condition C.3.</i></li> <li><i>Amended Architectural Plans are required to show details of plant space for Supermarket building, HVAC equipment and rainwater tanks. Sectional and or photomontage drawings for the Rainwater Tanks are required. If the rainwater tanks are to be installed underground further detail is required.</i></li> </ul> <p>.....</p> <p><b>RECOMMENDATIONS</b></p> <p><i>Council's Team Leader Environment &amp; Sustainability has determined that the development proposal is satisfactory in terms of ESD subject to compliance with the following Conditions of Consent.</i></p> <p><b>See conditions C25-28.</b></p>	
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## 9.2 The following table contains particulars of external referrals.

EXTERNAL REFERRALS		
External Referral Body	Reason for referral	Comment
NSW Office of Water	s.91 Activity Approval, <i>Water Management Act 2000</i>	<p>A letter dated 21/12/11 was received from Department of Primary Industries, Office of Water, which states:</p> <p><i>It is understood that the proposal has been modified from that originally presented (Council reference DA 955/2003/1) so as to avoid the construction of basement levels within the water charged ground beneath the site. The following response is provided on that basis, and will need to be altered if the development application is modified such that basement construction is again proposed.</i></p> <p><i>On the basis of the current information as provided by council, the NSW Office of Water does not consider that an authorisation for the extraction of groundwater is warranted at this time. That is because the proposed works likely to have an impact on groundwater beneath the site are of limited extent and short-term direct disturbance (such as the installation of piled foundations or stormwater storage tanks). As a result of there being no prolonged pumping of groundwater required to allow construction to proceed, no general terms of approval specific to dewatering are suggested to council for inclusion as consent conditions. It is recommended, however, that any minor excavations (such as lift shaft sumps) should be of watertight final construction to prevent unnecessary future exposure of workers or others on site to groundwater seepage that could potentially become contaminated without warning.</i></p> <p>See <b>condition A.8</b></p>
Roads and Maritime Services Sydney Regional Development Advisory Committee (SRDAC)	State Regional Environmental Planning Policy (Infrastructure) 2007 cl.104(3)	<p>A letter dated 15/2/12 was received (via email dated 29/3/12) from Roads &amp; Maritime Services (RMS) following the Sydney Regional Development Advisory Committee (SRDAC) meeting on 14/12/11.</p> <p>The letter provides comments on the applicant's intersection modelling. Also, it raises 17 points/advisory comments for Council to consider in determining the DA. (see <b>annexure 12</b>)</p> <p>Subsequently additional intersection performance data was provided by the applicant to RMS on a number of occasions.</p> <p>A letter dated 16/5/12 was received from RMS which contains the matters to be considered in determining the DA. This letter requires certain works/actions to be undertaken by the applicant regarding the intersections of New South Head Road with Kiaora Road and Manning Road. (see <b>annexure 12A</b>).</p> <p>See <b>condition A.5</b></p>
New South Wales Police	For comment under the Memorandum of Understanding – Crime Prevention Through Environmental Design (CPTED)	<p>A letter dated 21/2/12 was received from NSW Police Force, Rose Bay Local Area Command.</p> <p>The letter, in part, states:</p> <p><i>After perusing the paperwork and plans associated with this proposal, Police have completed a crime risk assessment of this site. The crime risk rating is calculated as “Medium”</i></p>

EXTERNAL REFERRALS		
External Referral Body	Reason for referral	Comment
		<p><i>based on the proximity of licensed premises, the planned Dan Murphys retail space and the current level of alcohol related crime in this Local Area Command.</i></p> <p>Recommendations and suggestions are made in relation to surveillance, access control, territorial reinforcement, activity and space management and other issues. Reference is also made to the <i>Crime prevention through environmental design assessment report</i>, by TPG dated October 2011, project no.: 209.058.47 CPTED FH, which is appendix U of the SEE.</p> <p>See <b>condition A.9</b></p> <p>(see <b>annexure11</b> for detailed comments)</p>

## 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:

### 10. RELEVANT STATE/REGIONAL INSTRUMENTS AND LEGISLATION

#### 10.1 SEPPs

##### 10.1.1 State Environmental Planning Policy No.1 – development standards (SEPP 1)

The aims of SEPP 1as contained in cl.3 are as follows:

*This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.*

Clause 6 refers to the making of applications as follows:

*Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefor) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.*

The applicant has submitted written objections in support of this DA that compliance with height development standards in WLEP 95 is unreasonable or unnecessary and which specifies the grounds for the objections. The SEPP 1 objections are discussed in part 11.3 of this report.

##### 10.1.2 State Environmental Planning Policy No. 55 – remediation of land (SEPP 55)

The objects of this Policy are in cl.2 as follows:

- (1) *The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land.*
- (2) *In particular, this Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*
  - (a) *by specifying when consent is required, and when it is not required, for a remediation work, and*
  - (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
  - (c) *by requiring that a remediation work meet certain standards and notification requirements.*

The application was accompanied by the following documentation relating to site contamination:

- *Updated report on preliminary contamination assessment, by Douglas Partners, project 36280.02-1, February 2010*
- *Update of preliminary waste classification letter report for Kiaora Place, Double Bay, from Douglas Partner, 15/2/2010*
- *Remediation action plan, by Douglas Partners, project 36280.04-2, October 2011 (the Original RAP)*
- *Report on supplementary contamination assessment, by Douglas Partners, project 36280.03, October 2011*

The applicant submitted additional information relating to site contamination consisting of:

- *Report on supplementary contamination assessment, by Douglas Partners, project 36280.05, April 2012*
- *Remediation Action Plan, by Douglas Partners, project 36280.04-2- Rev 01, April 2012 (the 2012 RAP).*

Part 3.1 of the Council's Environmental Health Officer's referral response (EHO's review) (Annexure 4 of this report) reviews the original documentation submitted with the DA relating to site contamination. The EHO also provided referral comments dated 23/4/12 on the Douglas Partners (DP) documentation dated April 2012, see Annexures 4B and 4C of this report.

Under clause 7(1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. The Original RAP identified the extent of remediation as:

*Based on the extent of the DP's contamination assessments (DP 2010a, DP2011a and DP2011b), the extent of remediation will need to address the B(a)P (benzo(a)pyrene) exceedances detected in the filling at DP6 at a nominal depth of 0.3 bgl and BH106 at a nominal depth of 0.3-0.6 bgl. (p.17)*

DP6 was a sample taken from the front yard of the existing dwelling at 5 Kiaora Road at the eastern end of the development site. The B(a)P concentration was 5.3 mg/kg which exceeded the adopted remediation criteria of 5mg/kg by 0.3mg/kg. The *Updated report on preliminary contamination assessment* includes the following comments:

*With respect to the detected benzo(a)pyrene exceedance at Bore 6 at 0.3 metres, it is noted that the sample of concern was collected from the topsoils of the front yard of a federation*

*home. Given the age of the residential home, it is considered that the potential for gross contamination at the residential home site is low. The marginal benzo(a)Pyrene exceedance (5.3 mg/kg versus the assessment criteria of 5mg/kg) is most probably associated with the topsoil/filling that was used in the front yard of the residential home. (p.30)*

BH106 was a sample taken from under the centre of the existing Woolworths supermarket building. The B(a)P concentration was 9.6 mg/kg which exceeded the adopted criteria by 4.6 mg/kg. The Supplementary contamination assessment includes the following comments:

*..... the concentration of B(a)P in one soil sample (BH106/0.3-0.6 – 9.6 mg/kg) exceeded the adopted SAC (Site Assessment Criteria) of 5 mg/kg. In this regard sample BH106/0.3-0.6 was collected from sand filling which contained trace fragments of slag. As a result, the B(a)P exceedance detected in this sample would most likely be attributable to the slag fragments seen at this location. Further, the analytical results for the deeper fill sample (BH106/0.7-1.0) and the natural sample (HG106/2.1-2.5) showed that the concentration of PAH (polycyclic aromatic hydrocarbon) and B(a)P was low and within the adopted SAC. In view of the detected exceedance, sample BH106/0.3-0.5 was subjected to a toxicity characteristic leaching procedure(TCLP) test to ascertain the leachable concentration of B(a)P in the sample. The results of TCLP analysis showed that the leachable concentration of B(a)P was below the laboratory's limit of reporting, suggesting that the detected B(a)P is immobilised within the slag fragments present in the filling. i.e. it is unlikely to migrate . (p.20)*

The Original RAP adopted encapsulation as the preferred remediation option.

*..... This option involves the installation of an engineered physical barrier system to limit the exposure of site users and/or off-site receptors to contaminants.*

*..... Further, the detected B(a)P exceedances at BH106 and DP6 is located within the footprint of areas that will be under a building slab. Therefore, this remedial strategy is considered to be the most practical and cost effective option and would result in a substantial reduction in health and environmental risk to an acceptable level, whilst also achieving minimisation of filling, which is both technically feasible and easy to manage and maintain in the long run.(p.19)*

The 2012 Supplementary Contamination Assessment included the following comments:

*..... it is considered that with the exception of the fill present at sampling location BH302 at a nominal depth of 0.2-0.8m bgl and BH 305 at a nominal depth of 0.4-0.5m bgl, the remainder of the fill within the existing residential properties at the KPR (Kiaora Roads) site is compatible with a commercial/industrial land use. In this regard, whilst the previous DP assessments (DP 2010a, 2011a and 2011c) identified B(a)P exceedances at DP6 and DP 106, given the current supplementary data and the 95% UCL (Upper Confidence Limit) of average B(a)P concentrations in the fill (excluding samples BH302/0.2-0.6 and BH305/0.4-0.5), it is considered that remedial works at DP6 and BH106 are not warranted. On the other hand the recorded hot-spot concentrations at BH302 and BH305, remedial works in the vicinity of these two bores will be required (refer Section 12.3). (p.29)*

Sample BH302 was taken from the backyard of 5 Kiaora Road. The concentration of total Polycyclic Aromatic Hydrocarbons (PAH) of 367.9mg/kg exceeded the adopted site assessment criteria (SAC) of 100mg/kg. The concentration of total benzo(a)pyrene (B(a)P) of 33.89mg/kg exceeded the SAC of 5mg/kg.

Sample BH305/0.4-0.5 was collected from within the footprint of 2 Kiaora Road. The concentration of PAH was 575.6mg/kg while B(a)P was 45mg/kg which both exceed the SAC.

In relation to Anderson and Patterson Street the 2012 Supplementary Contamination Assessment includes:

*PAH and B(a)P exceedances were detected in the asphalt samples collected from BH314 and BH315. In samples BH314/0-0.1 and BH315/0-0.1, the concentration of PAH (1627.9 mg/kg and 209.9 mg/kg, respectively) and B(a)P (120 mg/kg and 21 mg/kg, respectively) exceeded the adopted SAC of 100 mg/kg and 5 mg/kg, respectively. The recorded PAH and B(a)P concentration at BH314/0-0.1 was at hot-spot levels. Further, the recorded B(a)P concentration at BH315/0-0.1 was also at hot-spot levels. The detected PAH exceedances in the asphalt samples, therefore, indicate that the road surface at Anderson and Patterson Street, at least partly, contain coal tar. In view of the B(a)P exceedances, the two samples were subjected to TCLP analysis to ascertain the leachable concentration of B(a)P in the road materials. The results of the leachability analysis showed that the leachable concentration of B(a)P in both samples was less than the laboratory's limit of reporting, suggesting that the PAH are immobilised within the road materials.*

*Nevertheless, given the high PAH and B(a)P concentrations, it is considered that the asphalt/road profile material sourced from Anderson and Patterson Street is not suitable for reuse within the proposed commercial/industrial development or for off-site use including recycling. On the other hand, the subsoils at Anderson and Patterson Street (i.e., fill below the asphalt road profile) are compatible with a commercial/industrial land use.*

The 2012 RAP identifies the preferred remedial option as 'removal of the contaminated material to landfill'. This is estimated to involve excavation of an area 5m x 5m to a depth of 0.8m for BH302 and a depth of 0.4m-0.5m for BH305. In relation to Anderson and Patterson Streets the road pavement/asphalt profile is to be removed and disposed off-site to a suitably licensed landfill.

The EHO's referral comments of 23/4/12 recommend that if approval is granted a number of conditions be imposed. These include conditions for remediation to be carried out in accordance with the 2012 RAP, validation monitoring and the preparation of an Environmental Management Plan, see **conditions D.2 - 4**.

Under SEPP 55 the remediation works would be category 1 remediation works due to the location of the development site in a scenic protection zone under WLEP 95. This means that development consent is required for the remediation works. Development consent can be granted either as part of the DA or as a separate DA. As the requirements for public notification of a DA for category 1 remediation work have been satisfied with the advertising/notification of the current DA and as it is apparent that the applicant is seeking approval to carry out the remediation works as part of this DA any consent for this DA will be a consent to carry out the category 1 remediation works.

The proposal is considered to be satisfactory in terms of SEPP 55. Any consent should be subject to conditions as contained in the EHO's review.

### 10.1.3 State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)

The aims of SEPP 64 are in cl.3 as follows:

- (1) *This Policy aims:*
  - (a) *to ensure that signage (including advertising):*
    - (i) *is compatible with the desired amenity and visual character of an area, and*
    - (ii) *provides effective communication in suitable locations, and*
    - (iii) *is of high quality design and finish, and*
  - (b) *to regulate signage (but not content) under Part 4 of the Act, and*
  - (c) *to provide time-limited consents for the display of certain advertisements, and*
  - (d) *to regulate the display of advertisements in transport corridors, and*
  - (e) *to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.*
- (2) *This Policy does not regulate the content of signage and does not require consent for a change in the content of signage.*

The controls for advertisements are in part 3. Clause 9 provides that part 3 does not apply to *building identification signs* or *business identification signs*. The signs proposed by this DA, as referred to in part 4 of this report, are business identification signs. Therefore the provisions of part 3 do not apply.

The proposed signs are assessed against the relevant provisions of the DBDCP in the Compliance Officer's referral response, see part 9.1 of this report.

### 10.1.4 State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The aims of the Infrastructure SEPP are in cl.2. The relevant aim to this proposed development is cl.2(f) which is as follows:

*The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:*

- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.*

Clause 104 of the Infrastructure SEPP relates to traffic generating development and provides as follows:

#### **104 Traffic-generating development**

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*
  - (a) *new premises of the relevant size or capacity, or*
  - (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) *In this clause, **relevant size or capacity** means:*
  - (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
  - (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
- (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
  - (b) *take into consideration:*
    - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
    - (ii) *the accessibility of the site concerned, including:*
      - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
      - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
    - (iii) *any potential traffic safety, road congestion or parking implications of the development.*
- (4) *The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.*

Clause 104 applies to the proposed development<sup>1</sup>. In relation to cl.104(3)(a) written notice was given to the RTA (now Roads and Maritime Services (RMS)) on 25/11/11. The Sydney Regional Development Advisory Committee (SRDAC) considered the matter at its meetings on 14/12/11, 4/4/12, 24/4/12 (on-site meeting) and 7/5/12. Following these meetings the applicant's traffic consultant, Halcrow, provided additional information, mainly relating to the modelling of the performance of New South Head Road intersections, at the request of RMS.

RMS provided its comments by letter dated 16/5/12 (**annexure 12**). The principle recommendations relate to the intersections of New South Head Road with Cross Street/Kiaora Road/Bellevue Road and with Manning Road. This is discussed in detail in Part 15 – Impacts, of this report. Also see **annexure 12A** and **condition A.5**.

### **10.1.5 State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP)**

The aims of the AHSEPP are in cl.3. The relevant aims for the assessment of this DA are cl.3(a) and (c) which are as follows:

*The aims of this Policy are as follows:*

- (a) *to provide a consistent planning regime for the provision of affordable rental housing,*
- (c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*

Part 3 of the AHSEPP relates to the retention of affordable rental housing. Clause 48 provides that Part 3 applies to certain land which includes land within the Sydney region. Part 3 therefore applies to land in the Woollahra local government area.

Clause 49 provides that Part 3 applies only to those buildings that were low-rental residential buildings as at 28/1/00. The definition of *low-rental residential building* includes a residential flat building (RFB) that contains a low-rental dwelling. A *low-rental dwelling* definition includes a dwelling that at any time in the 24 month period prior to the lodgement of a DA was let at a rental not exceeding the median rental level as specified in the *Rental and Sales Report*.

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<sup>1</sup> Schedule 3 includes commercial premises & shops in column 1 and 2,500m<sup>2</sup> in area & 500m<sup>2</sup> respectively in column 3  
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The applicant was requested by email dated 30/11/11 to provide rental information in relation to 2 Anderson Street, a 2 storey RFB containing 4 flats that is within the Kiaora Lands development site and that is proposed to be demolished as part of the redevelopment. On 17/2/12 the applicant submitted an *Assessment report pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009, proposed demolition of 2 Anderson Street, Double Bay as part of the "Kiaora Lands Redevelopment", Double Bay*, prepared by TPG and dated February 2012.

That report states that the rental figures for 2000 were unattainable but an assessment against the Affordable Rental Housing SEPP is necessary as current rental figures indicate that rents have been below the median level for some time. Rental details for the past 24 months were submitted for each of the 4 flats within the building. The flats comprise 1 x studio, 1 x 2 bedroom & 1 x 1 bedroom flats.

Clause 50 - *Reduction of availability of affordable housing*, requires development consent for the demolition of a building to which Part 3 applies (cl.50(1)). Clause 50(2) requires a consent authority to take into account the guidelines (*Guidelines for retention of existing affordable rental housing*) and the following matters:

- (a) *whether there is likely to be a reduction in affordable housing on the land to which the application relates,*

The applicant's report states that:

*The proposed demolition will result in all of the 4 bedrooms within the existing residential flat building becoming no longer available for low-rental accommodation.*

The Guidelines state that:

*The most obvious example of development that reduces low rental accommodation is the demolition of a low rental building to enable its replacement with a non- residential use.*

The proposal therefore will reduce affordable housing on the land.

- (b) *whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation,*

Clause 50(3) provides as follows in relation to the availability of comparable accommodation and cl.50(2)(b):

- (3) *For the purposes of subclause (2) (b), sufficient comparable accommodation is conclusively taken to be not available if the average vacancy rate in private rental accommodation for Sydney as published monthly by the Real Estate Institute of New South Wales is, for the 3 months immediately preceding the date of lodgement of the development application, less than 3 per cent.*

The vacancy rate for Sydney is less than 3% and has been for some time. Therefore it is effectively deemed that there is not sufficient comparable accommodation available.

- (c) *whether the development is likely to cause adverse social and economic effects on the general community,*

The applicant's report states:

*It is acknowledged that the demolition works which are proposed for this DA may have some social or economic impacts within the general community.*

*A direct effect of the proposed works would be the loss of low cost accommodation available in the Woollahra LGA. To alleviate this problem a financial contribution would be made to the relevant authority to mitigate towards the replacement cost of the dwellings. ....*

*....., the residential flat building on the subject site has to be demolished in order for the Kiaora Lands proposal to be undertaken. Thus, the proposed works will be part of the Kiaora Lands Redevelopment which in turn will have numerous beneficial flow-on effects into the broader community.*

*With the appropriate alleviation measures in place the proposed development will have only minor adverse social and economic effects on the general community.*

The Guidelines indicate that with a vacancy rate of less than 3% it must be concluded in Sydney that there is not sufficient comparable accommodation in the locality to satisfy the demand for such accommodation. *In those circumstances, a development proposing a loss of such accommodation is likely to cause adverse social and economic effects on the general community.* The Guidelines then list a range of potential adverse social and economic impacts.

In the context of the Guidelines the proposal is likely to cause adverse social and economic effects. However, it is acknowledged The Kiaora Lands development will have community benefits as mentioned in the applicant's report.

*(d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find alternative comparable accommodation,*

The applicant's report states that only 2 of the 4 flats remain occupied and the remaining tenants are vacating on 28/2/12.

*As one of the two remaining residents is a more "susceptible" tenant – being unemployed and on government arrangements, assistance has been provided to that resident to find satisfactory alternative accommodation. The applicant has provided the following:*

- an agreement with a local real estate agent giving the displaced residents first option for comparable accommodation that comes onto the market; and*
- a period of notice to vacate up to 90 days generally as required under the Residential Tenancies Act 1987.*

*The applicant is willing to positively consider the imposition of these options as appropriate conditions of development consent, although we are informed that both remaining units will be vacated by 28/02/2012 in which case the conditions will be unnecessary.*

The Guidelines state that where a development is likely to result in displacement of existing residents, arrangements to assist those residents to find alternative accommodation must be identified. They list a range of options that should be considered. The assistance provided by the applicant, as stated in their report, is consistent with the options listed in the Guidelines. The Guidelines also state that conditions imposing assistance provisions can be authorised by s.94F of the Act. Accordingly, a condition should be imposed on any consent requiring arrangements to assist displaced residents find alternative accommodation.

*(e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area,*

The applicant's report states:

*The demolition works of the existing dwelling are not expected to have a significant impact on the overall availability of low-cost rental stock within the local area.*

*According to the ABS 2006 Census data for the Woollahra LGA, there was at the time of data collection at least 460 dwellings rented below the median for studio, and one and two bedroom dwellings in the Woollahra LGA this being \$275, \$415 and \$570 respectively. Therefore it is considered that the loss of 4 low-rental dwellings from the subject site will not contribute to any cumulative loss of affordable housing stock in the Woollahra LGA. ....*

The Guidelines say that there has been an incremental, long term decline in low rental accommodation in most areas to which the policy applies (though the rate of decline varies in time and location).

The Woollahra LGA is likely to be experiencing a decline in low rental accommodation and, notwithstanding the information provided by the applicant about the remaining stock, the loss of the subject building will contribute to some extent to the overall cumulative loss.

*(f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements,*

The existing building is proposed for demolition due to it being part of the Kiaora Lands redevelopment site. Therefore, structural soundness of the building, its fire safety and any costs associated with works necessary to make the building comply do not require further discussion.

*(g) whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development,*

The applicant's report states:

*It is also noted that the current Sydney vacancy rate for inner ring suburbs (0-10km from Sydney CBD) for the November 2011 quartile is 1.2%, therefore it is taken under Clause 50(3) of the AHSEPP 2009 that sufficient comparable affordable housing accommodation is not available in the Woollahra LGA.*

*The proposed demolition works on site will result in the loss of low rental accommodation. As such, a monetary contribution for mitigation purposes is likely to occur, although the decision to impose such an affordable housing condition is a discretionary one.*

*With the loss of 4 bedrooms from the low rental housing building a total of \$118,600 could be contributed to the relevant authority to adequately mitigate their loss. This figure was calculated using the DoPI Part 3 – Online assessment tool for Affordable Rental Housing .... The contribution would be in accordance with Clause 50(2)(g).*

#### 4. CONCLUSION

*In addition, and in accordance with Clause 50(2)(g), the imposition of an affordable housing condition requiring a monetary contribution would adequately mitigate the reduction of affordable housing from the site.*

In relation to cl.50(2)(g) the Guidelines include the following comments:

*A balanced assessment of the other criteria of clause 50(2) will commonly find that the development satisfies some criteria and not others, with varying degrees of acceptable and adverse impacts. Where it is clear that the overall impact is major and adverse and cannot be adequately mitigated, serious consideration should be given to refusal – or at least negotiating a modification of the proposal to make its impact acceptable.*

*In other cases, the imposition of an affordable housing condition may be an appropriate way to enable the development to proceed while mitigating its impact.*

*Statutory issues to be addressed when considering the imposition of a condition requiring an affordable housing contribution are set out in Appendix 1 of these Guidelines.*

*A fundamental pre-condition for such a condition is the requirement of Section 94F(1)(a) of the Act that the development will or is likely to reduce the availability of affordable housing within the area. This is determined by the assessment made under clause 50(2)(a) of the SEPP, which is whether the development results in a reduction in affordable housing on the land to which the application relates.*

*This is clearly the case when the amount of affordable housing in the area is in decline. ....*

A balanced assessment of the other criteria of cl.50(2) has been carried out. The conclusions that can be drawn from that assessment are:

- The proposal will reduce affordable housing on the land
- There is not sufficient comparable accommodation available
- In the context of the Guidelines the proposal is likely to cause adverse social and economic effects, however, it is acknowledged that the Kiaora Lands development will have community benefits
- The Woollahra LGA is likely to be experiencing a decline in low rental accommodation and, notwithstanding the information provided by the applicant about the remaining stock, the loss of the subject building will contribute to some extent to the overall cumulative loss

The overall impact however is not considered to be major and adverse. The imposition of an appropriate affordable housing condition would be a means of mitigating the impact of the loss of affordable housing. The statutory issues set out in Appendix 1 of the Guidelines are based on s.94F of the Act. The following comments are provided in relation to the issues set out in Appendix 1:

- The need for affordable housing in the Woollahra LGA is established by cl.51(1) of the AHSEPP
- The AHSEPP authorises affordable housing contributions as the development is subject to Part 3 and will result in the loss of existing low rental accommodation
- Any condition would comply with Part 3 of the AHSEPP
- The development will reduce the availability of affordable housing in the area
- The extent of the need for affordable housing in the area has been established by the earlier assessment of cl.50(2)(b) and by the fact that the vacancy rate for Sydney is below 3% thereby deeming that there is insufficient comparable accommodation

- The earlier assessment under cls.50(2)(a) and (e) found that the development will result in a reduction in affordable housing and contribute to a cumulative loss of low-rental accommodation in the area
- The applicant has not made any contribution under s.94F of the Act and no other contribution under s.94 is recommended
- Any contribution would be based on the on-line calculator on the Department of Planning website

Based on the foregoing it is considered that an affordable housing condition should be imposed. Using the Department's on-line calculator the contribution would be \$148,250.00 [NOTE: This differs from the amount in the applicant's report, i.e. \$118,600.00, which seems to be based on the loss of 4, rather than 5, bedrooms. This discrepancy may be related to the way that data is processed by the on-line calculator for the number of bedrooms for a bed-sitter/studio unit. The data entry field shows '0' bedrooms but the actual calculation is based on a bedroom.]. See **condition A.6**.

**10.1.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005** (Sydney Harbour REP) [Note: Regional Environmental Plans (REPs) were deemed to be State Environmental Planning Policies (SEPPs) in July 2009]

The aims of this plan are in cl.2 as follows:

- (1) *This plan has the following aims with respect to the Sydney Harbour Catchment:*
  - (a) *to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained:*
    - (i) *as an outstanding natural asset, and*
    - (ii) *as a public asset of national and heritage significance, for existing and future generations,*
  - (b) *to ensure a healthy, sustainable environment on land and water,*
  - (c) *to achieve a high quality and ecologically sustainable urban environment,*
  - (d) *to ensure a prosperous working harbour and an effective transport corridor,*
  - (e) *to encourage a culturally rich and vibrant place for people,*
  - (f) *to ensure accessibility to and along Sydney Harbour and its foreshores,*
  - (g) *to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,*
  - (h) *to provide a consolidated, simplified and updated legislative framework for future planning.*

As the development site is not in the foreshores or waterway area the specific development controls and matters for consideration under Part 3 are not relevant to the assessment of this DA. The development will drain to the open stormwater channel in Kiaora Road which discharges to Sydney Harbour. Proposed drainage measures including the control of water quality discharges from the site, which is discussed elsewhere in this report, are considered to be satisfactory in terms of the relevant aims of the Sydney Harbour REP.

## 10.2 REPs

See earlier comments in part 10.1 of this report in relation to Sydney Harbour REP.

## 10.3 Development contributions/levies

### 10.3.1 Section 94 contributions

The objectives of Council's *Section 94 Contributions Plan 2002* as set out in cl.3.2 are as follows:

*The objectives of the Plan are:*

- (a) To provide a means by which the Council can implement the provisions of section 94.*
- (b) To ensure that adequate public amenities and public services are provided to meet the demand created by new development.*
- (c) To provide a comprehensive framework for the assessment, collection, expenditure, accounting and indexation of development contributions on an equitable basis.*
- (d) To ensure that the existing community is not burdened by the cost of providing public amenities and public services required as a result of future development.*
- (e) To enable the Council to be both publicly and financially accountable in its assessment and administration of this Plan.*

Under cl.3.3 the Plan applies to all land within the Woollahra Local Government Area. It therefore applies to the land the subject of this DA.

Clause 3.3.2 sets out the types of development to which the Plan applies. In particular it provides that development consent for certain developments will be subject to a condition that requires payment of a monetary contribution or dedication of land or provision of a material public benefit. Relevantly these developments include:

- (d) retail, commercial or other business development (including hotels, motels, serviced apartments and tourist facilities) within Double Bay and Rose Bay commercial centres that yields additional floor area*

The proposed development includes, in part, retail and commercial development in the Double Bay commercial centre. The Plan would therefore apply to the retail and commercial part of the proposed development. However, the Plan would not apply to the proposed public library as it is not retail or commercial development.

Clause 3.3.3 provides that development does not apply to development involving a change of use on land in the Double Bay commercial centre unless the proposal will result in net increase in gross floor area. The proposal would result in an increase in floor area and cl.3.3.3 is not considered to exclude the proposed development from the operation of the Plan.

Clause 3.3.4 sets out the catchment areas where the Plan applies. The catchment area for recreation (applicable to residential developments) is the entire Municipality. For parking and civic improvements it includes the Double Bay and Rose Bay commercial areas. These commercial areas are shown on maps in figures 3.1 (Double Bay) and 3.2 (Rose Bay). The Double Bay catchment encompasses part of the site being that land currently occupied by the existing Woolworths supermarket and the Kiaora Lane carpark. The balance of the development site is outside of the catchment area shown in figure 3.1.

Clause 3.9 allows a material public benefit in to be accepted in satisfaction of a development consent condition requiring the dedication of land or monetary contribution.

Clause 3.11 relates to major development and provides as follows:

*As defined in the following table, major development should as far as possible make provision (on or off site) for those facilities for which a contribution is required under this Plan. An applicant for major development should discuss the proposal with Council at an early stage to agree on how the development should be designed to comply with this requirement.*

The table referred to in cl.3.11 includes retail and commercial or other business having a gross floor area of more than 500m<sup>2</sup>. This development would therefore be a *major development* under the Plan.

Part 4 of the Plan deals with *Strategy Plans*. Clause 4.5 identifies increased demand for public facilities as follows:

*The projected growth will lead to increased demand for the following range of public facilities –*

- *Recreation throughout the Municipality*
- *Parking for non-residential development in the Double Bay and Rose Bay commercial centres*
- *Civic improvements in the Double Bay and Rose Bay commercial centres as well as to increased administrative costs for the Council in the planning for and provision of these facilities.*

Clause 4.6.4 provides that a contribution will be levied on development anywhere in the Municipality which results in a net increase in the number of dwellings or dwelling-houses. No dwellings are proposed as part of this DA. In fact the opposite is the case as the proposal will result in a reduction of the number of dwellings and dwelling-houses. It is worth noting that in calculating recreation contributions a ‘credit’ would apply to existing dwellings (\$690 to \$1,434/unit depending on the number of bedrooms) and dwelling houses (\$1,503/dwelling house).

Clause 4.7.4 provides that a contribution will be levied on retail and commercial and other business development in Double Bay that generates increased demand for on-site parking, to the extent of the shortfall of car parking that cannot or is not required to be provided on the site. The amount of on-site car parking is determined under the DCP applying to the proposed development, in this case the DBCDCP.

A Traffic Report was submitted with this DA, prepared by Halcrow, Doc: CTLREAr01v5 111019.doc FINAL, 19 October 2011 (the Halcrow Report). Part 4 of the Halcrow Report calculates that, under the DBCDCP, the retail and commercial components of the proposed development will generate an additional demand of 305 parking spaces<sup>2</sup>. The application proposes 459 car parking spaces and therefore there will be no shortfall of on-site parking in terms of cl.4.7.4 of the Plan and no parking contribution would apply.

Clause 4.8.4 provides that a contribution will be levied on commercial and other business development in Double Bay for which civic improvement works have been or are to be provided. This clause also provides that public facilities related to the Kiaora Lands component of development may be provided as works in kind or another material public benefit.

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<sup>2</sup> Retail 7,160m<sup>2</sup> at 3.5 parking spaces/100m<sup>2</sup> = 250 spaces; commercial 2,790m<sup>2</sup> at 2.0 parking spaces/100m<sup>2</sup> = 55 spaces. NOTE: Excludes the demand generated by the public library (16 spaces) and replacement of existing public parking spaces (145 spaces).

The monetary contribution for civic improvements in Double Bay is calculated at the rate of \$13/m<sup>2</sup> of retail GFA and \$17m<sup>2</sup> of commercial GFA. Based on a retail GFA of 9,750m<sup>2</sup> and a commercial GFA of 2,790m<sup>2</sup> the civic improvement contribution would be \$216,136.20<sup>3</sup>.

As the proposed development will include the following public benefits it is considered that no civic improvements monetary contribution should be applied as the value of such benefits are considered to be greater than the monetary contribution:

- 2,234m<sup>2</sup> of floor area to be used for the purpose of a public library
- A public car park containing 446 car parking spaces
- A public arcade providing access from New South Head Road to Kiaora Lane
- Public domain works to Kiaora Lane including a 'shared zone' and public plaza
- Drainage works to supplement the existing stormwater drainage in Kiaora Lane

As discussed earlier, 4.8.4 of the Plan provides for public benefits to be provided for the Kiaora Lands development in the form of works in kind or other material public benefit.

Clause 4.9 of the Plan provides that a contribution may be levied for preparation and administration of the plan being 1.5c/\$ of the recreation, parking and civic improvements contribution. As it is considered that either no monetary contributions can be levied under the Plan, or that it would be inappropriate to levy such contributions, no contribution should be levied for plan preparation and administration.

### 10.3.2 Section 94A levy

The *Woollahra Section 94A Development Contributions Plan 2011* relates to the levying of developer contributions under s.94A of the Act. A purpose of the Plan, as contained in cl.3.2, is to authorise the imposition of conditions on development consent requiring that the applicant pay to the Council a levy determined in accordance with the Plan.

Relevantly, cl.3.3.2, *Development to which Plan applies*, provides as follows:

*This Plan applies to all development applications and applications for complying development certificates in respect of development on land to which this Plan applies, **other than applications made by or on behalf of the Council.*** (emphasis added)

As Council is a land owner and beneficiary of the development proposed by this DA it is considered that it is an application made on behalf of the Council. Therefore the Plan is not considered to apply to this application pursuant to the provisions of cl.3.3.2.

## 10.4 Other relevant legislation

### 10.4.1 Liquor Act 2007

The application proposes that part of the development will be occupied by a Dan Murphys liquor store. Under the Liquor Act, Part 3, Division 5, such a use would be in the category requiring a packaged liquor licence, i.e. retail sales.

Section 45 *Decision of Authority in relation to licence application*, includes:

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<sup>3</sup> GFAs based on information contained in the Halcow Report. The GFAs do not allow for discounting of the GFA of the existing buildings.



(3) *The Authority must not grant a licence unless the Authority is satisfied that:*

*(c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.*

The granting of consent to this DA would address this requirement when an application is made for a package liquor licence under the Liquor Act. There are other matters which the Licencing Authority would need to take into consideration before a licence could be issued including a community impact statement.

## **11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995 (WLEP)**

The WLEP amendment no. 67 was gazetted on 10/6/11. WLEP (amendment no. 67) concerns the Kiaora Lands development site. It amended the WLEP in the following manner:

- Rezones part of the land at 2 Patterson Street and part of the land at 1, 2 and 4 Anderson Street from Zone No 2(b) Residential to Zone No 3(a) Business General
- Introduces FSR standards to the land known as Kiaora Lands. The FSR is graduated across the site
- Introduces maximum building height standards to the land known as Kiaora Lands. The height is graduated across the site
- Omits cl.20(1)(d) and (4)
- Amends cl.20(5) and (6)
- Omits cl.21(E) Development on certain land in Double Bay
- Amends in Schedule 1 the definition of “foreshore scenic protection area”

The gazettal of WLEP (amendment no. 67) also brought into effect the Double Bay Centre DCP (amendment no. 3). The Double Bay Centre DCP (amendment no. 3) made various changes including the introduction of a new Appendix 2 – Kiaora Lands.

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

The aims and objectives of the WLEP are in cl.2. Clause 2(1) contains the aims of the plan which are as follows:

*(1) The aims of this plan are -*

- (a) to replace all existing local environmental plans and planning schemes which apply to the land to which this plan applies with a single local environmental plan,*
- (b) to provide a comprehensive planning instrument that is clear and explicit but which provides flexibility in its application,*
- (c) to promote the management, development, conservation and economic use of property within the area of Woollahra,*
- (d) to provide for an appropriate balance and distribution of land for commercial, retail, residential and tourist development and for recreation, entertainment and community facilities,*
- (e) to ensure that growth within the area of Woollahra occurs in a planned and co-ordinated manner,*

- (f) to facilitate the provision of urban infrastructure,*
- (g) to conserve the environmental heritage of the area of Woollahra,*
- (h) to protect the amenity and natural environment of the area of Woollahra, and*
- (i) to provide the framework for more detailed controls to be contained within development control plans.*

Clause 2(2) contains objectives of the plan. These relevantly include:

*(a) in relation to residential development -*

- (i) to promote the development of land to which this plan applies as a comprehensively planned residential community providing recreational, commercial, retail and community facilities of a type which are appropriate to meet the needs of the population to be accommodated,*
- (ii) to relate population density to the capacity of the existing road network, the availability of parking, the provision of public open space, the capacity of the natural environment to accept change without losing its attributes, the capacity of existing utility networks, the level of service by public transport, and the proximity to the city centre, schools, shops, health services and community facilities,*
- (iii) to zone land in order to create separate areas of residential and non-residential use in the interests of residential amenity, a balanced distribution of services and employment and efficient traffic distribution,*

*(b) in relation to retailing and commerce -*

- (i) to zone land for retail and commercial purposes, enabling development at scales and intensities which serve local or broader community needs,*
- (ii) to consolidate and improve established centres so that they remain both commercially attractive and viable,*
- (iii) to ensure that new development in the commercial centres does not unduly affect the amenity of adjoining residential areas by virtue of the use, design, bulk and scale of the development and traffic generation,*
- (iv) to allow for a diversity of suitable retail uses within the established centres, and*
- (v) to ensure that consideration is given to providing adequate levels of access when alterations and additions to existing buildings and new developments for commercial or retail uses are proposed,*

*(c) in relation to community services and facilities -*

- (i) to facilitate the provision and equitable distribution of community services necessary to meet the needs of the population,*
- (ii) to provide opportunities for the development of community services and facilities in appropriate areas, and*
- (iii) to allow for contributions towards the provision of community services and facilities,*

*(d) in relation to traffic and transport -*

- (i) to encourage the development of a balanced transport system, including the provision of safe and convenient facilities for pedestrians, cyclists, public transport users and other road users,*
- (ii) to implement a rational and efficient distribution of vehicular traffic throughout the area of Woollahra by establishing a hierarchy of roads to service various transport functions,*
- (iii) to ensure the adequate provision of car parking and servicing facilities within commercial areas,*

- (iv) to improve the provision of car parking and reduce conflict between resident and visitor demands for car parking space in residential areas,*
- (v) to minimise conflict between pedestrians and vehicles,*
- (vi) to minimise conflict between transport and land use activities,*
- (vii) to minimise the impact, on adjoining residential areas, of traffic and parking generated by commercial areas,*
- (viii) to allow for contributions towards the provision of car parking and traffic management measures necessitated by any new development,*
- (ix) to reserve land for the improvement of traffic flow,*
- (x) to encourage the provision of adequate access for older people and people with a disability to safe and convenient car parking, footpaths and access to public transport facilities,*
- (f) in relation to the landscape -*
  - (i) to protect and enhance the natural landscapes throughout the area of Woollahra,*
  - (ii) to promote the retention of trees and the planting of suitable new trees in appropriate locations,*
  - (iii) to control or minimise the impact of future development upon natural features such as significant trees or stands of trees, ridgelings or land within view of any waterway,*
  - (iv) to protect and enhance the environmental quality of the area of Woollahra through the appropriate management and conservation of the existing pattern of vegetation, and*
  - (v) to protect the native flora and fauna,*
- (g) in relation to heritage conservation -*
  - (i) to identify heritage items and heritage conservation areas and to provide measures for their conservation, protection and enhancement,*
  - (ii) to ensure that new development is undertaken in a manner that is sympathetic to and does not detract from the heritage significance of heritage items and their settings and of heritage conservation areas,*
  - (v) to provide for the detailed control of development associated with or in proximity to heritage items and heritage conservation areas,*
- (i) in relation to local infrastructure -*
  - (i) to provide and maintain local infrastructure to meet the needs of the community whilst having regard to access and installation constraints arising in built up areas,*
  - (ii) to encourage the optimum use of existing infrastructure, and*
  - (iii) to encourage the provision of efficient utility services,*
- (j) in relation to global warming -*
  - (i) to promote energy conservation measures,*
  - (ii) to promote energy-efficient building development and mass transport systems, and*
  - (iii) to ensure that new development takes account of global warming effects,*
- (k) in relation to urban design -*
  - (i) to promote the creation and upkeep of an attractive and comfortable public environment,*
  - (ii) to retain and enhance the existing elements of the physical environment of the area of Woollahra that, in the opinion of the Council, contribute to the attractive public environment,*
  - (iii) to require that design and siting of new development enhance the attributes of its site and improve the quality of the public environment, and*

- (iv) to ensure that consideration is given to providing adequate levels of access, useability and enjoyment of public facilities and places to all people in the community, including older people and people with a disability,*
- (m) in relation to outdoor advertising:*
  - (i) to convey advertisers' messages and images while complementing and conforming to both the buildings on which they are displayed and the character of the locality, and*
  - (ii) to ensure that it does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way, and*
  - (iii) to ensure that it does not lead to visual clutter through the proliferation of signs, and*
- (n) to promote and encourage water conservation.*

Clause 8 deals with development control tables. Clause 8(5) provides:

*The Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with such objectives of this plan and of the zone within which the development is proposed to be carried out as apply to that development.*

The land is in the Business General 3(a) zone. The objectives of the 3(a) zone as set out in Item 3 of the table are:

- (a) to define the main commercial areas within the Council's area which provide for a wide range of retail and commercial uses, ancillary light industrial uses, entertainment, social and recreational uses, tourist accommodation and residential development mixed with non-residential uses,*
- (b) to encourage employment generating uses in accessible localities,*
- (c) to allow for residential development in the form of mixed development so as to encourage urban consolidation and promote the vitality of business centres, and*
- (d) to control the physical and functional characteristics of business centres in order to minimise their impact on neighbouring residential lands.*

Item 4 of the 3(a) zone table identifies drainage and roads as being development which may be carried out without development consent. Part 5 sets out development which may be carried out only with development consent and includes any development other than development included in Items 4 or 6.

The proposed development is categorised as *car parking structure, commercial premises, community facility* and *shops* under schedule 1 –definitions of the WLEP. As these categorisations are not included in either Item 4 or 6 the proposed development is permissible only with development consent.

The proposal is considered to be consistent with the objectives of the WLEP and with the objectives of the 3(a) zone that apply to it. The reasons for this are discussed in the following parts of this report.

## 11.2 Statutory compliance tables

### 11.2.1 New South Head Road building

Site Area: 2,171m <sup>2</sup>		Proposed	Control	Complies
Overall Height	NSH Rd parapet	16.8m	16.5m	<b>NO</b>
	Kiaora Lane parapet	17.8m	16.5m	
	Plant on roof	19.2m	16.5m	
Floor Space Ratio		3:1 (6,507.5m <sup>2</sup> )	3:1 (6,513m <sup>2</sup> )	<b>YES</b>

### 11.2.2 Kiaora Lane building

Site Area: 11,871m <sup>2</sup>		Proposed	Control	Complies
Overall Height		14.87m	13m	<b>NO</b>
Floor Space Ratio		1.08:1 (12,819m <sup>2</sup> )	1.1:1 (13,058m <sup>2</sup> )	<b>YES</b>

## 11.3 Height

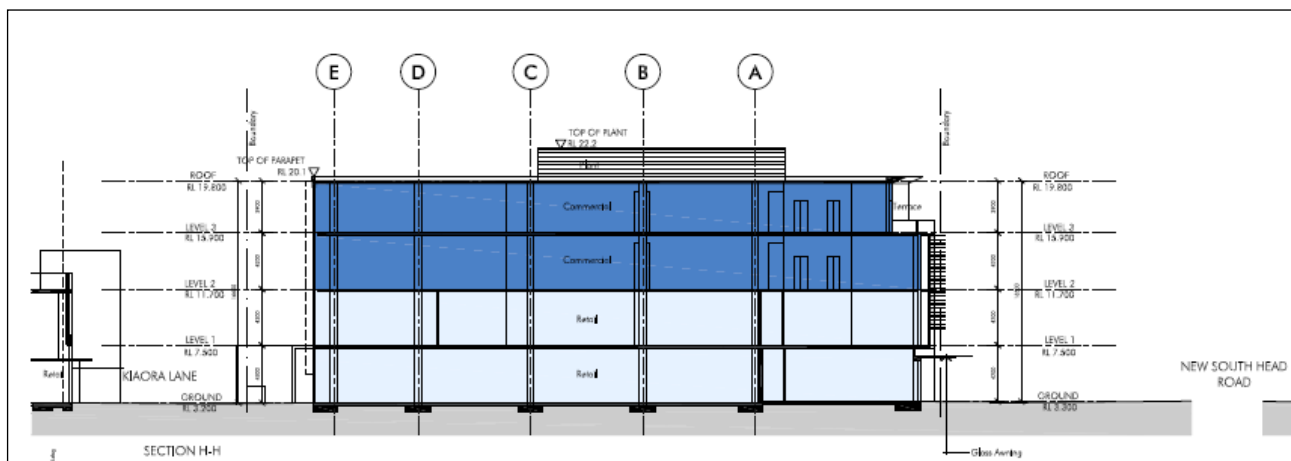
WLEP cl.12(1) provides:

*A building shall not be erected on land within a height zone to a height greater than the maximum height shown on the height map as applicable to land within that height zone.*

As indicated in the tables to part 11.2 of this report the proposed buildings will partly exceed the maximum heights shown on the height map (being the WLEP amendment 67 height map). As mentioned earlier in this report the applicant has submitted SEPP 1 objections with this DA including objections to the height controls in the WLEP. The applicant's SEPP 1 objections are in Appendix AA of the SEE. TPG submitted a letter dated 6/3/12 which revised the SEPP 1 objection for the Kiaora Lane building.

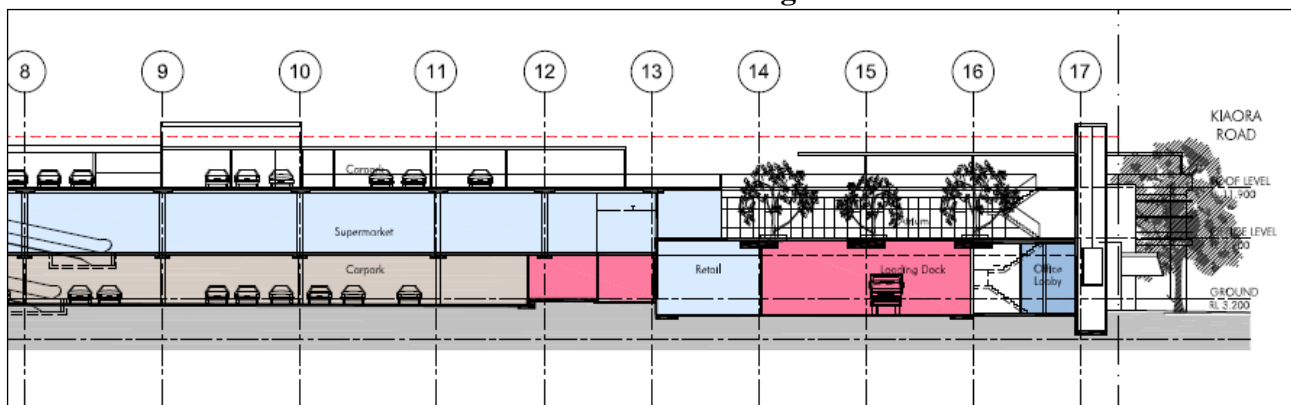
The following extracts from the architectural plans are cross sections of the portions of the buildings where the height exceedances occur.

## New South Head Road Building



Source: DA

## Kiaora Lane Building



Source: DA

### 11.3.1 New South Head Road building

The applicant's SEPP 1 objection addresses the 5 questions raised by his Honour Justice Lloyd in *Winten Property Group Ltd v North Sydney Council* [2001] NSWLEC 24 as follows:

#### 2.1.3 Development Standard to be Varied

*The development standard to which this objection relates is the map described in Schedule 1 under the WLEP, which contains provisions relating to the maximum height for the site.*

.....

*Based on the drawings prepared by Nettleton Tribe the proposed library building component of the development has a maximum height of 19.9m from the top of the plant located on the roof to existing ground level immediately below that point.*

*The applicant has included as part of the design a public benefit in the form of the library and Council has provided its specifications based on their architectural brief for this library facility.*

*This SEPP 1 objection relates to a departure from a numerical standard prescribed under the Schedule 1 Height Map of the WLEP and is a development standard as it specifies a height which fits within the definition as outlined above.*

**2.2 Question 2: What is the underlying objective or purpose of the standard?**

*As stated in "DOP Circular B1" above, numerical requirements may be departed from if the purpose behind the control is achieved and the locality objectives of the relevant planning instruments are satisfied.*

*There are no stated objectives to the Height Map under Schedule 1 and while the provisions of Clause 12 of the WLEP do not apply, it is considered reasonable that the provisions of Clause 12AA in terms of the objectives of the Height provisions under Clause 12 could be considered as the basis of the standard (it should be noted that no residential component is proposed within the library building):*

**12AA Objectives of maximum building height development standards**

*The objectives of the maximum building height development standards set by clause 12 are as follows:*

- (a) to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*
- (b) to provide compatibility with the adjoining residential neighbourhood,*
- (c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*
- (d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing,*
- (e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of streetscapes.*

**2.3 Question 3: Is compliance with the development standard consistent with the aims of the policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in s5(a)(i) and (ii) of the EP&A Act?**

*The proposed development is consistent with the aims of the Policy which promotes flexibility in the application of planning controls.*

*The development is consistent with the objects of Sections 5(A)(i) and (ii) of the EP&A Act, which provides as follows:*

- (a) promote the orderly and economic development of the local government area of Woollahra in a manner consistent with the need to protect the environment, and*
- (b) retain and enhance the identity of the Woollahra/Double Bay area derived from its role as an early residential suburb with local services and retail centres.*

*This development represents an orderly and economic use of the land. The natural environmental qualities of the land are not jeopardised.*

*It would not be orderly or economic development for the library building development to provide for absolute compliance given the significant public benefits which will flow from the development.*

**2.4 Question 4: Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?**

*Justice Preston in the decision of Wehbe v Pittwater Council [2007] NSWLEC 827 at 43 stated:*

*“...development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

*Strict application of the standard is considered to be unreasonable and unnecessary in the current circumstance for the following reasons:*

- *The proposed development will be consistent with the stated aims and objectives of the WLEP;*
- *The proposed development is consistent with the Height objectives of the WLEP under Clause 12AA; and*
- *The control has been amended by Council for the subject site despite a previous approval obtaining a greater height under the original EPI, therefore a variation of the Height Map which is site specific will not undermine the application of the control in the future as the development envisaged for the site is for a purpose sought by Council and subject to Council's specifications.*

*Strict compliance with the development standard is unnecessary as the development will still achieve the environmental and planning objectives.*

*Strict compliance is unreasonable as no environmental or planning purpose would be served by enforcing strict compliance and would not bring about a good planning outcome.*

- *The impact on views of Sydney Harbour, ridgelines, private and public open spaces and views of the city skyline have been minimised as the breaches at the parapet edges of the building are minor and the plant does not extend across the width of the building,*
- *The provision of the library facility has been prescribed by Council with specifications associated with ceiling heights which have resulted in the minor breaches of the control,*
- *The primary proposed use of the building as a library will assist in the promotion of transit orientated development, and will not result in a development which is excessively intense,*
- *The height, bulk and scale of the proposed development is consistent with surrounding development,*
- *The proposed development will not create any unreasonable overshadowing, result in loss of privacy of views, or create an adverse visual impact upon the streetscape or the environment, and will achieve solar access to the plaza proposed in Kiaora Lane,*
- *The development will not generate any adverse traffic impacts,*
- *The breach of the height control in terms of the plant will not be visible from New South Head Road or any other nearby public spaces as the plant is well setback from the building parapets,*
- *The scale of the surrounding development has been considered and the proposed development is considered to be compatible in the streetscape along New South Head Road given the following:*
  - *The design is complementary to the existing streetscape and will not impact the heritage significance of the Golden Sheaf;*



- *The Height breach will enable the public benefit of the library to be brought about.*

*Further The Department of Planning's "Guidelines for the Use of State Environmental Planning Policy No.1" (refer DOP Circular No.B1) state that:*

*As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small and in other cases it may be numerically large, but nevertheless be consistent with the purpose of the standard...*

*In deciding whether to consent to a development application the Council should test whether the proposed development is consistent with the State, regional or local planning objectives for the locality; and in particular the underlying objective of the standard. If the development is not only consistent with the underlying purposes of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unnecessary and unreasonable.*

*The variation of the development standard will not undermine the application of this development standard in the future as other sites may not afford the public benefits proposed in this development and will not be in such close proximity of the bus network.*

*The variation of the development standard will promote the principles outlined in the Sydney Metropolitan Strategy by promoting activities in close proximity to public transport. In this regard, the development is consistent with the state and regional objectives for development within the Sydney Metropolitan Area.*

*Having regard to all of the above, it is requested that the height control be varied in this instance to permit the proposed development. It is acknowledged that the proposed development seeks a variation to the height applying to the site. Notwithstanding the non-compliance, it is considered that the proposal satisfies the objectives of the control.*

*For these reasons it is considered that strict application of this standard is unreasonable and unnecessary in this circumstance.*

### **2.5 Question 5: Is the objection well founded?**

*In the decision of Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Justice Preston rephrased the questions as follows:*

- 1. The applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*
- 2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act; and*
- 3. It is also important to consider:*
  - (a) whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
  - (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

*These questions are addressed below:*

***QUESTION 1 Is the objection well founded?***

*For the reasons set out in the following responses to questions 2A, 2B and 3, the proposed departure from the development standard is well founded.*

*As outlined above, the stated objectives of the development standard can be achieved despite non-compliance with the standards. As such, this SEPP 1 objection is consistent with the first of the alternative methods outlined by Preston CJ in Wehbe to demonstrate that a SEPP 1 objection is well founded.*

***QUESTION 2(A) Is the granting of consistent with the policy's aim of providing flexibility in the application of the planning control where strict compliance with the control would be unreasonable and unnecessary?***

*Clause 3 of SEPP 1 provides for flexibility in the application of a planning control where it can be demonstrated that strict compliance is unreasonable and unnecessary. Clause 3 states:*

*3 Aims, objectives etc*

*This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a)(i) and (ii) of the Act.*

*Compliance with the development standard is unreasonable and unnecessary as:*

- The cause of the non-compliance with the development standard is as a result of providing for a public benefit.*
- The development does not adversely impact on the amenity of adjoining properties.*
- The matters raised in Section 5 of this SEPP 1 establish the reasons why compliance is unreasonable and unnecessary*

*A development which complies with the development standard is unreasonable and unnecessary in the circumstances of this case, in particular, given the public benefit which will be derived by the community with the new library facility. Even if it were possible to comply, it would be unfeasible to do so, particularly given that the proponent has included the Council's own specifications for achieving a suitable library facility.*

***QUESTION 2(B) Or hinder the attainment of the objects in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?***

*5 Objects*

*The objects of this Act are:*

*(a) to encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

*...*

*Compliance with the development standard the subject of this objection would hinder attainment of the EP&A Act's object to promote orderly and economic use and development of the Land.*

**QUESTION 2(C) Are the objectives of the standard achieved notwithstanding non-compliance with the standard?**

*The provisions of Schedule 1 of the WLEP do not include specific objectives. However, each of the applicable Height objectives under Clause 12A A (noting that there is no residential component) have been addressed previously in this SEPP 1. Each of the applicable objectives of the control will be achieved by the proposed development.*

**QUESTION 3(A) Whether non-compliance with the development standard raises any matter of significance for State or regional planning?**

*The non-compliance with the development standard as proposed is not considered likely to raise any matters of significance for State or regional planning.*

**QUESTION 3(B) Whether non-compliance with the development standard will undermine the public benefit of maintaining the planning controls adopted by the environmental planning instrument?**

*The direct public benefits proposed to be provided to Council arising from the development are considered to outweigh the strict compliance with the standard and as such will not undermine the application of the planning control for future development.*

*Preston CJ then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:*

- A. the objectives of the standard are achieved notwithstanding noncompliance with the standard; [relevant for the reasons outlined above and below]*
- B. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary; [not applicable]*
- C. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; [relevant for the reasons set out above and below]*
- D. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; [relevant for the reasons set out above and below in that Council has previously departed from the standard]*
- E. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone. [not applicable]*

*It is considered that the strict application of the development standard in this instance has been demonstrated to be both unreasonable and unnecessary given that:*

- The height and scale of the proposed development is consistent with surrounding development;*
- The proposed development will not create any unreasonable overshadowing, unreasonable loss of privacy or views, or adverse visual impact upon the streetscape or the environment;*
- The development will not generate any adverse traffic impacts;*
- The development inclusive of the variation sought is consistent with the applicable objectives of the development standard;*
- The development is consistent with the scale and character for this portion of streetscape in the Double Bay Town Centre;*

- *The development with its library will result in economic, social and public benefits to the community of Double Bay; and*
- *The development satisfies the Land and Environment Court's requirements for a well-founded departure from the relevant standard.*

*For the reasons set out above, refusal of the development application on the basis that the development does not comply with the development standard in question is not warranted and this SEPP 1 Objection should be supported.*

The following assessment of the applicant's SEPP 1 objection is undertaken in accordance with Council's *SEPP 1 Objections* procedure. It applies the questions established in *Winten Property Group Limited v North Sydney Council*. These questions remain the principal tests to establish whether or not a SEPP No.1 Objection is well founded, however the more recent principles arising from *Wehbe v Pittwater Council* are applied to inform the assessment.

### ***1. Is the planning control in question a development standard?***

WLEP cl.12(1), referred to earlier, limits the height of buildings to the maximum height shown on the height map. The height map for the land is the height map which forms part of the WLEP – amendment no. 67. The height map shows a height for the land to be occupied by the New South Head Road building as being 16.5m. The 16.5m height control is a development standard.

As stated in the *Statutory Compliance Table* (refer to part 11.2.1 of this report) various parts of the building will exceed a height of 16.5m, the highest parts being the plant areas on the roof which achieve a height of 19.2m or RL22.2. The bulkheads to the roof access stairs are also shown to be RL22.2. Lift overruns are depicted as protruding no more than the parapets above the finished surface of the roof suggesting that a specific type of lift design is proposed for this building. The finished surface of the main roof is RL19.8 which varies from 0.03m to 0.98m above the height control. The highest parts of the building represent a departure of 16.4% from the development standard.

The building is designed with a flat concrete roof with 0.3m high parapets. The concrete roof is separated by a lower level metal and glass sloping roof located above the ground floor arcade. Two roof level plant areas are proposed, one on each side of the concrete roof. The plant areas protrude 2.4m above the roof surface and are enclosed by aluminium louvers with masonry walling on the side boundaries. There is no roof over the plant areas.

The eastern plant area is 18.4m x 11m, abuts the eastern boundary and is setback 7m to 9m from the northern (NSH Rd) edge of the roof and 13.4m to 14.4m from the southern (Kiaora Ln) end of the roof. The western plant area is 21m x 11.4m and is setback from 8.4m to 10.2m from the northern (NSH Rd) edge of the roof and 14.4m to 15.2m from the southern (Kiaora Ln) edge of the roof. The plant areas, which also encompass the access stair bulkheads, represent about 23% of the total roof area.

### ***2. What is the underlying purpose of the standard?***

The underlying purpose of the height standard should be regarded as the *Objectives of maximum building height development standards* as contained in cl.12AA of the WLEP and which have been quoted earlier in this report, see the applicant's SEPP 1 objection.

**3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?**

The aim of the Policy is set out at clause 3 and seeks to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s.5 (a) (i) and (ii) of the EPA Act”.

**(a) Objectives underlying Development Standard**

In *Whebe v Pittwater Council* Preston CJ states that:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

Accordingly, the following assessment considers the objection made by the applicant against the provisions of cl. 12AA of the WLEP which sets out the relevant objectives of the height development standard and whether or not it is established that the objectives of the development standard are achieved irrespective of the non-compliance.

*(a) to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*

The applicant submits that the impact on views have been minimised as the breaches at the parapet edges of the building are minor and the plant does not extend across the width of the building.

The applicant’s submission is supported. Views of the features referred to in cl.12AA(a) from the private or public domains will be minimal.

*(b) to provide compatibility with the adjoining residential neighbourhood,*

The applicant submits that the height, bulk and scale of the proposed development is consistent with surrounding development. The applicant also notes that no residential component is proposed within the library (NSH Rd) building.

The New South Head Road building will not be seen in the context of the residential neighbourhood. This is because the Kiaora Lane building will be located between it and the residential neighbourhood which is generally further to the south. The Kiaora Lane building will provide a transition between the New South Head Road building and the residential neighbourhood as envisaged by the recently introduced development controls under the Double Bay Centre DCP (amendment 3) that apply to the redevelopment of the Kiaora Lands. In this context the applicant’s submission is supported.

*(c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*

The applicant submits that *The proposed development will not ..... result in loss of privacy ..... .*

The New South Head Road building will not provide opportunities for overlooking of the interior or exterior living areas of neighbouring dwellings. The previous comments in relation to cl.12AA(b) regarding the relationship of the building to residential properties in the vicinity are similarly relevant for visual privacy implications. The applicant's submission regarding cl.12AA(c) is supported.

- (d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing,*

The applicant submits that *The proposed development will not create any unreasonable overshadowing, ... and will achieve solar access to the plaza proposed in Kiaora Lane. .... the plant is well setback from the building parapets.*

The New South Head Road building will not impact on sunlight access to the interior living rooms or the exterior open space areas of any residential properties. Refer to earlier comments in relation to cl.12AA(b) & (c) regarding the relationship of the building to existing residential properties. The components of the building that encroach above the height standard will not, in themselves, cast unreasonable shadows over the proposed plaza area. Shadowing of the plaza is further discussed under the Double Bay Centre DCP part of this report. The applicant's submission is supported.

- (e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes.*

Refer to the applicant's submission in relation to views as referred to under cl.12AA(a). The applicant further submits in relation to the New South Head Road streetscape that:

- *The scale of surrounding development has been considered and the proposed development is considered to be compatible in the streetscape along New South Head Road given the following:*
  - *The design is complementary to the existing streetscape and will not impact the heritage significance of the Golden Sheaf:*
  - *The Height breach will enable the public benefit of the library to be brought about.*

In this case the special quality of the New South Head Road streetscape is the adjoining Golden Sheaf Hotel which is listed as a heritage item under the WLEP. As discussed later in this report the design of the building is considered to be adequate in relation to the heritage significance of the Golden Sheaf Hotel. From heritage and urban design perspectives it is considered desirable to relocate the roof level plant areas away from the side boundaries. For this purpose the recommendation of this report includes an appropriate condition. Subject to this condition the applicant's submissions in relation to the public domain and streetscape are supported.

As a result of this assessment it is considered that, notwithstanding the non-compliance with the development standard, the underlying objectives founding that standard are achieved by the proposed development.

## **(b) The Objects of the Act**

The Land and Environment Court has established that it is insufficient merely to rely on absence of environment harm to sustain an objection under SEPP 1. This position was confirmed in *Whebe v Pittwater Council*. The following assessment considers whether the objection demonstrates that strict application of the development standard would hinder the attainment of the objects of the EPA Act.

Section 5 of the Act prescribes the objects relevantly as:

- (a) *to encourage:*
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land;*
  - (iii) *the protection, provision and co-ordination of communication and utility services;*
  - (iv) *the provision of land for public purposes;*
  - (v) *the provision of co-ordination of community services;*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities;*
  - (vii) *ecologically sustainable development; and*
  - (viii) *the provision and maintenance of affordable housing ...*

It is considered that, in these circumstances, the strict application of the development standard would hinder the attainment of the objects of the Act for the following reasons:

- The proposed New South Head Road building includes a major public benefit in the form of a public library. The library has been designed to meet the size requirements of the State Library of NSW's *People Places* benchmark of 2230m<sup>2</sup>- 2360m<sup>2</sup> for a central library for Woollahra.
- The public benefit in the form of a public library will promote the social welfare of the community and enable the provision of co-ordination of community services
- The roof level plant areas are designed to house gas fired, as opposed to electrical, heating cooling and ventilating system (HVAC) incorporating variable refrigerant flow (VRF) for the development thereby encouraging ecologically sustainable development
- The proposed height of the building enables the density of the site (i.e. 3:1) to be maximised within a 4 storey envelope with modest floor to floor heights (see Double Bay Centre DCP cl.2.5.2) while still maintaining setbacks to facilitate a public plaza and maintain the heritage significance of the adjoining heritage item to the west, the Golden Sheaf Hotel
- There is no height development standard that applies to land in the Double Bay commercial centre other than to land which comprises the Kiaora Lands. Consequently this proposed variation to the development standard, if allowed, would not result in unanticipated development outcomes within other areas of the Double Bay commercial centre (there are height controls in the Double Bay Centre DCP however these are not development standards)
- The independent urban design review undertaken on Council's behalf by Hassell includes the following in relation to this SEPP 1 objection:

#### ***Height of Library Building***

*The western portion of the Library Building (16.83m to 19.9m) does not comply with the maximum height limit of WLEP (16.5m) nor the DBCDCP which recommends that the western portion have a maximum height of 14m having regard to the heritage qualities of the neighbouring hotel. The SEPP 1 Objection accompanying the DA seeks to justify the height exceedence on the basis that the additional height is 'consistent with surrounding development' and will not have visual or amenity impacts on the streetscape or the environment.*

*It is considered that the height exceedence is acceptable, primarily as it relates to the plant room (19.9m) which is setback 10m from the New South Head Road elevation. This additional height is not visible from the New South Head Road elevation and therefore does not diminish the streetscape presentation.*

Having regard to the above circumstances it is considered that in this instance compliance with the height development standard would tend to hinder the attainment of the objects of the Act.

**4. Is compliance with the standard unreasonable and unnecessary in the circumstances of the case?**

The foregoing analysis has found that notwithstanding the non-compliance with the 16.5m height standard shown on the WLEP height map and therefore the non-compliance with cl.12(1) of the WLEP, the proposed development achieves the underlying objectives of that standard. Consequently it is considered that the SEPP 1 objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

**5. Is the objection well founded?**

The objection advanced by the applicant that compliance with the 16.5m height standard shown on the WLEP height map (and therefore the non-compliance with cl.12(1) of the WLEP) is well founded on the basis that its strict application would tend to hinder the attainment of the objects of the Act and that the proposed development achieves the underlying objectives of the standard notwithstanding the non-compliance.

**11.3.2 Kiaora Lane building**

The applicant submitted a revised SEPP 1 objection dated 6/3/12 to the 13m height standard that applies to the Kiaora Lane building.

The applicant's SEPP 1 objection addresses the 5 questions raised by his Honour Justice Lloyd in *Winten Property Group Ltd v North Sydney Council* [2001] NSWLEC 24 as follows:

**2.1.3 Development Standard to be Varied**

*The development standard to which this objection relates is the map described in Schedule 1 under the WLEP, which contains provisions relating to the maximum height for the site.*

.....

*In order to gain access for both able and disabled persons to each level of the proposed supermarket building including the commercial office component which is to be retained by Council as an asset, lift access to all levels is proposed. As a result, the lifts and their plant areas (lift overruns) will breach the maximum height controls.*

*The proposed redevelopment for the building at the Kiaora Lane frontage (supermarket building) will have a maximum height of approximately 14.87m (RL16.9 – RL2.03) at the Kiaora Road frontage for the lift overrun to the office component which will be owned and managed by Council in the completed building. This height does not comply with the maximum height shown in the map above associated with Amendment No. 67, which indicates 13m for this portion of the site development.*

*The other lift in the building will also breach the height control with an overall height of 14.35m (RL 16.7 – RL 2.35), and therefore has less of a breach when compared to the lift overrun to the office component of the building.*



*The WLEP includes under Schedule 1 the following definition:*

- **height**, in relation to a building, means the greatest distance measured vertically from any point on the building to the existing ground level immediately below that point.

*Schedule 1 includes a definition for “existing ground level” as follows:*

- **existing ground level** means the surveyed level of the ground surface immediately prior to the proposed development and prior to any associated excavation, development or site works.

*Based on the drawings prepared by Nettleton Tribe the proposed supermarket building component of the development has a maximum height of 14.87m from the top of the lift overrun of the lift core servicing the commercial offices of the supermarket building to existing ground level immediately below that point.*

*The applicant has included the commercial office floor space as part of the design as a public benefit which will flow to Council, as this floor space will be owned and operated by Council in the future.*

*This SEPP 1 objection relates to a departure from a numerical standard prescribed under the Schedule 1 Height Map of the WLEP and is a development standard as it specifies a height which fits within the definition as outlined above.*

## **2.2 Question 2: What is the underlying objective or purpose of the standard?**

*As stated in “DOP Circular B1” above, numerical requirements may be departed from if the purpose behind the control is achieved and the locality objectives of the relevant planning instruments are satisfied.*

*There are no stated objectives to the Height Map under Schedule 1 and while the provisions of Clause 12 of the WLEP do not apply, it is considered reasonable that the provisions of Clause 12AA in terms of the objectives of the Height provisions under Clause 12 could be considered as the basis of the standard (it should be noted that no residential component is proposed within the supermarket building):*

### **12AA Objectives of maximum building height development standards**

*The objectives of the maximum building height development standards set by clause 12 are as follows:*

- (a) to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*
- (b) to provide compatibility with the adjoining residential neighbourhood,*
- (c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*
- (d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing,*
- (e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of streetscapes.*

## **2.3 Question 3: Is compliance with the development standard consistent with the aims of the policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in s5(a)(i) and (ii) of the EP&A Act?**

*The proposed development is consistent with the aims of the Policy which promotes flexibility in the application of planning controls.*

*The development is consistent with the objects of Sections 5(A)(i) and (ii) of the EP&A Act, which provides as follows:*

- (a) promote the orderly and economic development of the local government area of Woollahra in a manner consistent with the need to protect the environment, and*
- (b) retain and enhance the identity of the Woollahra/Double Bay area derived from its role as an early residential suburb with local services and retail centres.*

*This development represents an orderly and economic use of the land. The natural environmental qualities of the land are not jeopardised.*

*It would not be orderly or economic development for the supermarket building development to provide for absolute compliance given the significant public benefits which will flow from the development.*

***2.4 Question 4: Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?***

*Justice Preston in the decision of Wehbe v Pittwater Council [2007] NSWLEC 827 at 43 stated:*

*“...development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”*

*Strict application of the standard is considered to be unreasonable and unnecessary in the current circumstance for the following reasons:*

- The proposed development will be consistent with the stated aims and objectives of the WLEP;*
- The proposed development is consistent with the Height objectives of the WLEP under Clause 12AA; and*
- The control has been amended by Council for the subject site despite a previous approval obtaining a greater height under the original EPI, therefore a variation of the Height Map which is site specific will not undermine the application of the control in the future as the development envisaged for the site is for a purpose sought by Council and subject to Council's specifications.*

*Strict compliance with the development standard is unnecessary as the development will still achieve the environmental and planning objectives.*

*Strict compliance is unreasonable as no environmental or planning purpose would be served by enforcing strict compliance and would not bring about a good planning outcome, on the following grounds:*

- No views to Sydney Harbour, or ridgelines, or private and public open spaces or the city skyline will be impacted by the proposed breach as a result of the lift overruns and their locations in the supermarket building,*
- The height, bulk and scale of the proposed development is consistent with surrounding development,*
- The proposed development will not create any unreasonable overshadowing, result in loss of privacy of views, or create an adverse visual impact upon the streetscape or the environment given the area of non-compliance is associated with the lift overrun,*

- *The development will not generate any adverse traffic impacts,*
- *The breach of the height control in terms of the lift overrun will not be visible from Kiaora Road or any other nearby public spaces as the plant is well setback from the building parapets,*
- *The scale of the surrounding development has been considered and the proposed development is considered to be compatible with the desired future streetscape along Kiaora Road given the following:*
  - *The design is complementary to the desired future streetscape and will not impact on the available solar access to the adjoining residential properties;*
  - *The height breach will enable the public benefit of the commercial space which will be in Council's ownership when complete to be brought about.*

*Further The Department of Planning's "Guidelines for the Use of State Environmental Planning Policy No.1" (refer DOP Circular No.B1) state that:*

*As numerical standards are often a crude reflection of intent, a development which departs from the standard may in some circumstances achieve the underlying purpose of the standard as much as one which complies. In many cases the variation will be numerically small and in other cases it may be numerically large, but nevertheless be consistent with the purpose of the standard...*

*In deciding whether to consent to a development application the Council should test whether the proposed development is consistent with the State, regional or local planning objectives for the locality; and in particular the underlying objective of the standard. If the development is not only consistent with the underlying purposes of the standard, but also with the broader planning objectives of the locality, strict compliance with the standard would be unnecessary and unreasonable.*

*The variation of the development standard will not undermine the application of this development standard in the future as other sites may not afford the public benefits proposed in this development and will not be in such close proximity of the bus network.*

*The variation of the development standard will promote the principles outlined in the Sydney Metropolitan Strategy by promoting activities in close proximity to public transport. In this regard, the development is consistent with the state and regional objectives for development within the Sydney Metropolitan Area.*

*Having regard to all of the above, it is requested that the height control be varied in this instance to permit the proposed development. It is acknowledged that the proposed development seeks a variation to the height applying to the site. Notwithstanding the non-compliance, it is considered that the proposal satisfies the objectives of the control.*

*For these reasons it is considered that strict application of this standard is unreasonable and unnecessary in this circumstance.*

## **2.5 Question 5: Is the objection well founded?**

*In the decision of Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Justice Preston rephrased the questions as follows:*

1. *The applicant must satisfy the consent authority that "the objection is well founded" and compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;*

2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP & A Act; and*
3. *It is also important to consider:*
  - (a) *whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
  - (b) *the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

*These questions are addressed below:*

***QUESTION 1 Is the objection well founded?***

*For the reasons set out in the following responses to questions 2A, 2B and 3, the proposed departure from the development standard is well founded. As outlined above, the stated objectives of the development standard can be achieved despite non-compliance with the standards. As such, this SEPP 1 objection is consistent with the first of the alternative methods outlined by Preston CJ in Wehbe to demonstrate that a SEPP 1 objection is well founded.*

***QUESTION 2(A) Is the granting of consistent with the policy's aim of providing flexibility in the application of the planning control where strict compliance with the control would be unreasonable and unnecessary?***

*Clause 3 of SEPP 1 provides for flexibility in the application of a planning control where it can be demonstrated that strict compliance is unreasonable and unnecessary. Clause 3 states:*

*3 Aims, objectives etc*

*This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a)(i) and (ii) of the Act.*

*Compliance with the development standard is unreasonable and unnecessary as:*

- *The cause of the non-compliance with the development standard is as a result of providing for a public benefit.*
- *The development does not adversely impact on the amenity of adjoining properties.*
- *The matters raised in Section 5 of this SEPP 1 establish the reasons why compliance is unreasonable and unnecessary*

*A development which complies with the development standard is unreasonable and unnecessary in the circumstances of this case, as lift access to all levels will facilitate compliance with DDA requirements and Australian Standards for access to the proposed development which is a benefit that cannot be excluded from the design of the building and as such it is not possible to comply.*

**QUESTION 2(B) Or hinder the attainment of the objects in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979?**

*5 Objects*

*The objects of this Act are:*

*(a) to encourage:*

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,*

...

*Compliance with the development standard the subject of this objection would hinder attainment of the EP&A Act's object to promote orderly and economic use and development of the Land.*

**QUESTION 2(C) Are the objectives of the standard achieved notwithstanding non-compliance with the standard?**

*The provisions of Schedule 1 of the WLEP do not include specific objectives. However, each of the applicable Height objectives under Clause 12A A (noting that there is no residential component) have been addressed previously in this SEPP 1. Each of the applicable objectives of the control will be achieved by the proposed development.*

**QUESTION 3(A) Whether non-compliance with the development standard raises any matter of significance for State or regional planning?**

*The non-compliance with the development standard as proposed is not considered likely to raise any matters of significance for State or regional planning.*

**QUESTION 3(B) Whether non-compliance with the development standard will undermine the public benefit of maintaining the planning controls adopted by the environmental planning instrument?**

*The direct public benefits proposed to be provided to Council arising from the development are considered to outweigh the strict compliance with the standard and as such will not undermine the application of the planning control for future development.*

*Preston CJ then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:*

- A. the objectives of the standard are achieved notwithstanding noncompliance with the standard; [relevant for the reasons outlined above and below]*
- B. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary; [not applicable]*
- C. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable; [relevant for the reasons set out above and below]*
- D. the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; [relevant for the reasons set out above and below in that Council has previously departed from the standard]*

*E. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone. [not applicable]*

*It is considered that the strict application of the development standard in this instance has been demonstrated to be both unreasonable and unnecessary given that:*

- *The height and scale of the proposed development is consistent with surrounding development;*
- *The proposed development will not create any unreasonable overshadowing, unreasonable loss of privacy or views, or adverse visual impact upon the streetscape or the environment;*
- *The development will not generate any adverse traffic impacts;*
- *The development inclusive of the variation sought is consistent with the applicable objectives of the development standard;*
- *The development is consistent with the scale and character for this portion of streetscape in the Double Bay Town Centre;*
- *The development with its library will result in economic, social and public benefits to the community of Double Bay; and*
- *The development satisfies the Land and Environment Court's requirements for a well-founded departure from the relevant standard.*

*For the reasons set out above, refusal of the development application on the basis that the development does not comply with the development standard in question is not warranted and this SEPP 1 Objection should be supported.*

The following assessment of the applicant's SEPP 1 objection is undertaken in accordance with Council's *SEPP 1 Objections* procedure. It applies the questions established in *Winten Property Group Limited v North Sydney Council*. These questions remain the principal tests to establish whether or not a SEPP No.1 Objection is well founded, however the more recent principles arising from *Wehbe v Pittwater Council* are applied to inform the assessment.

### ***1. Is the planning control in question a development standard?***

WLEP cl.12(1), referred to earlier, limits the height of buildings to the maximum height shown on the height map. The height map for the land is the height map which forms part of the WLEP – amendment no. 67. The height map shows a height for the land to be occupied by the Kiaora Lane building as being 13.0m. The 13.0m height control is a development standard.

As stated in the *Statutory Compliance Table* (refer to part 11.2.1 of this report) the lift shaft enclosure to the commercial offices at the eastern end of the building will achieve a height of 14.87m therefore exceeding the 13m height control by 1.87m or 14.4%.

The upper level of this 3 level building is an open car park. The car park surface adjacent to the lift shaft enclosure is RL12.05. On the Kiaora Road elevation there is a 1.2m high perimeter safety wall. Adjoining to the north of the lift is a roofed area, the roof being RL14.9. The lift shaft enclosure projects 2.0m above the roof and is designed with a full height glass facade on the Kiaora Road elevation.

The lift shaft enclosure ( $3.0\text{m} \times 2.75\text{m} = 8.25\text{m}^2$ ) represents a minor fraction of the overall area of the building and of the building's 60m (approx.) frontage to Kiaora Road. The height of the lift shaft enclosure represents a 14.4% departure from the 13m height standard.

The other area of non-compliance with the height standard is the main lift/stair enclosure for the supermarket and roof top carpark. This enclosure is on the building's Kiaora Lane frontage and achieves a height of 14.35m. This represents a 1.35m (10.4%) exceedance of the 13m control. This enclosure adjoins the south western corner of the public plaza and comprises for a distance of 10m being approximately 5.5% of the building's frontage to Kiaora Lane. The enclosure will have dimensions of  $10\text{m} \times 8.6\text{m}$  ( $86\text{m}^2$ ) and constructed of glazing with a graphic inner layer behind horizontal aluminium shade louvers.

Those components which exceed the height control represent about 1% of the building's roof area.

## **2. What is the underlying purpose of the standard?**

The underlying purpose of the height standard should be regarded as the *Objectives of maximum building height development standards* as contained in cl.12AA of the WLEP and which have been quoted earlier in this report, see the applicant's SEPP 1 objection.

## **3. Is compliance with the development standard consistent with the aims of the Policy, and in particular, does the development standard tend to hinder the attainment of the objects specified in s.5(a)(i) and (ii) of the EPA Act?**

The aim of the Policy is set out at clause 3 and seeks to “provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s.5 (a) (i) and (ii) of the EPA Act”.

### **(a) Objectives underlying Development Standard**

In *Whebe v Pittwater Council* Preston CJ states that:

*“An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

The following assessment considers the objection made by the applicant against the provisions of cl. 12AA of the WLEP which sets out the relevant objectives of the height development standard and whether or not it is established that the objectives of the development standard are achieved irrespective of the non-compliance.

*(a) to minimise impact of new development on existing views of Sydney Harbour, ridgelines, public and private open spaces and views of the Sydney City skyline,*

The applicant submits that *The proposed development will not ....., result in loss of views, .....*

There are no existing views of the features referred to in cl.12AA(a) across the site that would be impacted by the section of the lift shaft enclosures that exceeds a height of 13m.

The applicant's submission is supported.

*(b) to provide compatibility with the adjoining residential neighbourhood,*

The applicant submits that *The scale of the surrounding development has been considered and the proposed development is considered to be compatible in the desired future streetscape .....*

The Kiaora Road lift shaft enclosure is centrally located on the street elevation of the building, setback 35m (approx.) from the nearest residential property to the south, being 8 Kiaora Road which is a 3 storey home unit building. In the context of the different land use zonings which apply to the Kiaora Lands development site and the residentially zoned land to the south and east the proposed height of the lift is considered to be compatible.

The Kiaora Lane lift shaft will be seen in the context of the existing commercial properties in New South Head Road, the New South Head Road building proposed as part of this development (which achieves a height of 16.8m compared to 14.35m) and the new building with which it forms a part. It is not in the context of the residential neighbourhood but is considered to be compatible with its existing and proposed future contexts.

The development is also considered to be consistent with the *Desired future character objectives* (see cl. A2.3.2.1 and 2.3.2.5) of the Double Bay Centre DCP relating to Kiaora Road and Kiaora Lane.

The applicant's submission is supported.

*(c) to safeguard visual privacy of interior and exterior living areas of neighbouring dwellings,*

The applicant submits that *The proposed development will not ..... result in loss of privacy .....*

The Kiaora Road lift is located opposite the intersection of Kiaora Road with Leura Road which is a closed-off intersection. Therefore, although the lift enclosure will have a glass façade, the opportunities for overlooking of neighbouring residential properties is very limited.

The Kiaora Lane lift will not affect visual privacy of any dwellings. It will allow passive surveillance of the proposed public plaza and the lane consistent with objectives of the Double Bay Centre DCP.

The applicant's submission is supported.

*(d) to minimise detrimental impacts on existing sunlight access to interior living rooms and exterior open space areas and minimise overshadowing,*

The applicant submits that *The proposed development will not create any unreasonable overshadowing, .....*

Shadow diagrams submitted with the DA show that the lift shaft enclosures will not cast shadows onto any part of any surrounding residential properties. Shadowing onto Kiaora Road will be minimal. The Kiaora Lane enclosure is to the south of the public plaza and therefore will contribute to its overshadowing.



The applicant's submission is supported.

*(e) to maintain the amenity of the public domain by preserving public views of the harbour and surrounding areas and the special qualities of the streetscapes.*

Refer to the applicant's submission in relation to views as referred to under cl.12AA(a). The applicant further submits in relation to the Kiaora Road streetscape that:

- *The scale of surrounding development has been considered and the proposed development is considered to be compatible in the desired future streetscape along Kiaora Road given the following:*
  - *The design is complementary to the desired future streetscape and will not impact the available solar access to the adjoining residential properties;*
  - *The height breach will enable the public benefit of the commercial space which will be in Council's ownership when complete to be brought about.*

There are no public views of the Harbour and surrounding areas that will be affected by the proposal, including the lift shaft enclosure components of the proposal. This development will change the qualities of the existing streetscape in a manner that is consistent with the *Desired future character objectives* for Kiaora Road and Kiaora Lane as set out in cls.A2.3.2.1 and A2.3.2.5 respectively of the Double Bay Centre DCP. As such the relatively minor encroachment of the lift shafts on the height standard will satisfy the cl.12AA(e) objective.

As a result of this assessment it is considered that, notwithstanding the non-compliances with the development standard, the underlying objectives founding that standard are achieved by the proposed development.

## **(b) The Objects of the Act**

The Land and Environment Court has established that it is insufficient merely to rely on absence of environment harm to sustain an objection under SEPP 1. This position was confirmed in *Whebe v Pittwater Council*. The following assessment considers whether the objection demonstrates that strict application of the development standard would hinder the attainment of the objects of the EPA Act.

Section 5 of the Act prescribes the objects relevantly as:

- (a) *to encourage:*
- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, town and villages for the purpose of promoting the social and economic welfare of the community and a better environment;*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land;*
  - (iii) *the protection, provision and co-ordination of communication and utility services;*
  - (iv) *the provision of land for public purposes;*
  - (v) *the provision of co-ordination of community services;*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities;*
  - (vii) *ecologically sustainable development; and*
  - (viii) *the provision and maintenance of affordable housing ...*

It is considered that, in the circumstances of the case, the strict application of the development standard would hinder the attainment of the objects of the Act for the following reasons:

- The lifts will be features of the Kiaora Road and Kiaora Lane elevations of the building. They will provide access to the commercial and retail components located at the 1<sup>st</sup> floor level and the roof top parking.
- The Kiaora Road lift will promote the introduction of commercial activities into this section of Kiaora Road, consistent with the new land use zoning, thereby promoting the commercial activities in a visually aesthetic and practical means.
- The lifts will connect the commercial offices and retailing on the 1<sup>st</sup> floor with pedestrian access off Kiaora Road and Kiaora Lane and also with the car parking spaces, including disabled parking spaces, on the roof level.
- The height of the lift shafts is a consequence of their function, i.e. they service the roof level parking and necessarily must project sufficiently above the floor level of the car park to accommodate the lift car and mechanics.
- There is no height development standard that applies to land in the Double Bay commercial centre other than to land which comprises the Kiaora Lands. Consequently this proposed variation to the development standard, if allowed, would not result in unanticipated development outcomes within other areas of the Double Bay commercial centre (there are planning controls in the Double Bay Centre DCP relating to the height of buildings but they are not development standards).

Having regard to the above circumstances it is considered that in this instance compliance with the height development standard would tend to hinder the attainment of the objects of the Act.

**4. Is compliance with the standard unreasonable and unnecessary in the circumstances of the case?**

The foregoing analysis has found that notwithstanding the non-compliance with the 13m height standard shown on the WLEP height map and therefore the non-compliance with cl.12(1) of the WLEP, the proposed development achieves the underlying objectives of that standard.

Consequently it is considered that the SEPP 1 objection has established that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

**5. Is the objection well founded?**

The objection advanced by the applicant that compliance with the 13m height standard shown on the WLEP height map (and therefore the non-compliance with cl.12(1) of the WLEP) is well founded on the basis that its strict application would tend to hinder the attainment of the objects of the Act and that the proposed development achieves the underlying objectives of the standard notwithstanding the non-compliance.

**11.4 Floor space ratio (FSR)**

The density map for WLEP (amendment 67) indicates FSRs of 3:1 for the New South Head Road property and 1.1:1 for the Kiaora Lane property. The proposal complies with the respective FSRs.

It should be noted that the Council requested additional information in relation to FSR in an email to the applicant on 22/12/11. The applicant provided additional information on 17/2/12 which included a letter from TPG dated 17/2/12 and a letter from Higgins Surveyors dated 14/2/12. The letter from Higgins Surveyors provides a breakdown of gross floor area calculations based on the definition in the WLEP.

In relation to the New South Head Road building, the voids at 1<sup>st</sup> and 2<sup>nd</sup> floor levels above the section of the arcade at ground level are also taken to be part of the arcade. This is because of the particular design of this part of the building which is in the form of a contiguous atrium style of area which provides a significant amount of natural light to the ground level section of the arcade. This is also considered to be consistent with the provisions of the Double Bay Centre DCP, part 6.4.3 *Arcades, walkways and courtyards*, C2, which provides that arcades must have substantial natural lighting and ventilation.

In relation to the Kiaora Lane building there is a difference between the GFA as stated in the letter from Higgins Surveyors and as shown in the WLEP compliance table earlier in this report. This is due to the pedestrian accesses to the required roof level car parking which is excluded from GFA by the definition under the WLEP. Further, the roof level, apart from proposed plant rooms, is a *public car parking station* which is similarly excluded from being GFA. Higgins Surveyors also exclude an area at 1<sup>st</sup> floor located between the commercial areas at the eastern end of the building on the basis that it is an arcade. However, defining this area of the building as an arcade is not considered to be appropriate. Therefore, this area of the building has been included in the calculation of gross floor area for the purpose of the above calculation of FSR.

The proposal is considered to satisfy the floor space objectives in cl.11AA.

## **11.5 FSBL**

The land is not affected by a FSBL.

## **11.6 Other special clauses/development standards**

### **11.6.1 Clause 14 Acquisition and development reserved for roads**

The proposal does not include any land that is zoned for proposed road widening. It is noted that land at the northern end of 11 Patterson Street has a local roads reservation, however, the proposed development does not affect that land.

### **11.6.2 Clause 16 Development of land uncoloured on the land use map**

Clause 16 is relevant to the assessment of this DA as it proposes work on uncoloured land, i.e. part of Kiaora Lane. Clause 16 provides as follows:

- (1) *This clause applies to all land to which this plan applies shown uncoloured on the land use map, except land within Zone No 8.*
- (2) *The development of any land referred to in subclause (1) may be carried out, but only with the consent of the Council and only if the Council is of the opinion that the development:*
  - (a) *is compatible with the nature of development permissible on neighbouring land and the development standards applicable to development on neighbouring land, and*
  - (b) *is consistent with the objectives of this plan and the objectives of the zoning applying to neighbouring land.*
- (3) *Notwithstanding subclause (2), the development of any land referred to in subclause (1) by a public authority, or corporation that was a public authority which has been privatised, for the purposes of the construction, installation or maintenance of roads, stormwater drainage, utility installations (other than gas holders or generating works), sewers or other like purposes or any purpose ordinarily incidental or ancillary to those purposes may be carried out without the consent of the Council.*

The works proposed on the uncoloured section of Kiaora Lane involve changes to the level of the carriageway, stormwater drainage, creation of a 'shared zone' including new pavement material and other related works. In relation to subclauses (2)(a) and (b) these works are considered to be compatible with the nature of the commercial development permissible on neighbouring land and consistent with the objectives of the zoning applying to neighbouring land.

In any event, the works are to be carried out by (or on behalf of) Woollahra Municipal Council which is a public authority. Given the nature of the works proposed on the uncoloured land development consent would not be required having regard to subclause (3).

The development site includes parts of Anderson and Patterson Streets. The parts of these streets that will be developed is zoned 3(a) Business General and is shown coloured on the WLEP land use map. Clause 16 therefore does not apply to such land.

### **11.6.3 Clause 16A Suspension of certain agreements, covenants and similar instruments**

The survey plans prepared by Denny Linker & Co, dated 01/02/10, ref. no.: 100207 010635, note that covenants and a caveat apply to some of the properties which comprise the Kiaora Lands development site. These notes relates to lots 18, 19 and 20 in DP 12264 being properties 2 Patterson Street and 2 and 4 Anderson Street respectively and land comprising the Kiaora Lane car park.

Clause 16A was added to WLEP 1995 to facilitate the development of the subject land for business/commercial purposes.

Clause 16A provides as follows:

- (1) For the purpose of enabling the development specified in an item in Schedule 5 to be carried out in accordance with this plan or in accordance with a consent granted under the Act, the regulatory instruments specified opposite the development in that Schedule shall not apply to that development to the extent necessary to serve that purpose.*
- (2) In accordance with section 28 (3) of the Act, the Governor approved subclause (1) and items 1, 2, 3 and 4 of Schedule 5 before the making of this clause.*

Schedule 5 includes development that is permissible with or without consent in the zone on the following properties, which form part of Kiaora Lands development site:

- 1 Anderson Street
- 2 Patterson Street
- 4 Anderson Street
- 2 Anderson Street

The regulatory instruments are registered covenants. By virtue of cl.16A, should consent be granted to this DA, those registered covenants would not apply to the development proposed by this DA as such development is permissible under the zoning that applies to the land that comprises those properties.

### **11.6.4 Clause 18 Excavation:**

No bulk excavation of the site is proposed as part of this development. The SEE, appendix Q *Compliance tables* states that minimal excavation is proposed. Appendix V *Construction management plan*, 10 Excavation and dewatering, states:

*As there is no basement, there will be little excavation and little excavation impact on this site. Excavations will be for services, stormwater drainage, and stormwater storage tanks.*

Excavation associated with remediation of contaminated land and the treatment of acid sulphate soils should be minimal.

Clause 18 requires the temporary and permanent effects of excavation to be considered. It also allows consent to be declined unless various specialists reports have been considered. Reports/documentation submitted with the DA include specialist geotechnical, structural engineering and hydrology documentation. Having regard to the nature of the works proposed, a condition requiring dilapidation reports on adjoining properties should be imposed on any consent. Also, standard conditions to safeguard neighbouring properties should also be imposed.

The proposed excavation is acceptable in terms of Clause 18.

#### **11.6.5 Clause 19 HFSPA:**

Clause 19 requires the impacts of development to be assessed in respect to development on land within the harbour foreshore scenic protection area. The Kiaora Lands development site is not within the HFSPA. Assessment of the impacts referred to in cl.19 is therefore not required.

#### **11.6.6 Clause 20 Provision of public car parking spaces on certain lands in Double Bay**

Clause 20 does not apply to any land which forms part of the Kiaora Lands development site. It is noted that WLEP (amendment 67) made various changes/omissions to cl.20 in relation to reference to land within the Kiaora Lands development site.

#### **11.6.7 Clause 21E**

This clause, which did contain references to land within the Kiaora Lands development site, was omitted with the gazettal of WLEP (amendment 67).

#### **11.6.8 Clause 24 Land adjoining public open space:**

The Kiaora Lands development site does not adjoin any public open space. No assessment under cl.24 is therefore necessary.

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

Clause 25 provides as follows:

##### ***25 Water, wastewater and stormwater systems***

- (1) The Council must not grant consent to the carrying out of development on land or subdivision of land to which this plan applies for the purpose of a habitable building unless it is satisfied that adequate water and sewerage services will be available to the land it is proposed to develop.*
- (2) The Council must not grant consent to the carrying out of development on land or the subdivision of land to which this plan applies for any purpose unless it is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop.*

In relation to cl.25(1) the SEE, appendix Q, *Compliance tables*, states:

*The existing site development has access to water and sewerage services which will be augmented and amended to suit the development subject to Sydney Water issuing a S73 subdivider/Development Certificate and Council can condition for the same.*

Sydney Water advised us by letter dated 10/2/12 as follows in relation to water and wastewater:

**Water**

*The 100mm drinking water main fronting the proposed development in Kiaora Lane does not comply with the Water Supply Code of Australia (Sydney Water Edition – WSA 03-2002) requirement for minimum sized mains for the scope of development. The proposed development conflicts with the location of the 100mm drinking water mains in Anderson Street and Patterson Road. A deviation may be required.*

*The applicant is to refer to their Water Servicing Coordinator for details of requirements. Sydney Water will specify detailed requirements to service the development at the section 73 application phase.*

**Wastewater**

*The current wastewater system has sufficient capacity to service the proposed development. The Developer is to design and construct a wastewater main (connection to the 300mm main in Kiaora Lane), which will provide a point of connection at least one meter inside the property's boundaries.*

*The proposed development conflicts with the location of several wastewater mains within the property. A wastewater deviation may be required. The applicant is to refer to their Water Servicing Coordinator for details of requirements.*

The recommendation includes a condition requiring a developer compliance certificate to be issued by the Sydney Water Corporation prior to a construction certificate being issued. The purpose of this condition is to ensure that adequate provision has been made or is available for the provision of potable water to and the removal of waste water from the development, see **condition C.29**.

In relation to cl.25(2) the following documents were submitted with the DA:

- Stormwater drainage concept design plans prepared by Warren Smith & Partners Pty Ltd, drawing nos. H-01 to H-07, issue 03 and dated 18/10/11
- Civil works plans prepared by BG&E, drawing nos. SKC01 (rev.B, 24/10/11), SKC02 (rev. B, 24/10/11), SKC03 (rev.C, 16/11/11), SKC04 (rev.C, 16/11/11), SKC05 (rev. A, 24/10/11) and SKC06 (rev.A, 14/10/11)
- *Kiaora lands redevelopment DA flooding, stormwater and pavement design report*, by Worley Parsons dated 27 Oct 2011

Council's Development Engineer, in an interim referral response dated 6/1/12, advised that the stormwater concept plans and the civil plans are generally satisfactory, subject to amendments regarding water sensitive urban design (WSUD). In relation to flooding and overland flow the Drainage Engineer's response included the following comments:

*The Report determined that the flood levels in a 1 in 100 year storm event to be 2.9m AHD and recommends a retail floor level of 3.2m AHD. This corresponds to Council's freeboard requirements.*

*Council's Drainage Engineer made the following comments:*

*"The flood impact assessment prepared by Worley Parsons has been prepared using methods that are acceptable to Council."*

*As such, Council's Technical Services is satisfied with the retail flood protection measures.*

*However, the architectural plans identify that the car-park floor level has a varying floor level ranging between 2.3m AHD and 2.8m AHD which corresponds to flood water depths of up to 600mm.*

*The Report has identified that the flood hazard in the area is generally low with exception of the intersection of the Kiaora Lane and Kiaora Road.*

*It is noted that blockage in the open stormwater channel (SWC) has been factored into the flood level assessment. However, any additional blockage above the factored levels will increase the flood levels and subsequent hazards.*

*The nature and size of the development will intensify the use of the area. Vehicles and debris from the car-park and surrounding area will flow to the SWC causing additional blockage. As such, the applicant is required to take all reasonable steps to ensure public safety.*

*Council's Drainage Engineer has made the following comments:*

*"Water depths of over 300mm can cause vehicles to float which will cause the area to become hazardous. This needs to be addressed when the detailed emergency management plan is produced".*

*In accordance with the above and in accordance with The Double Bay Flood Risk Management Study and Plan, it is recommended to construct a stronger flow-through fence at the high risk location. The fence is needed to reduce the potential of the open SWC blocking.*

On 13/1/12 we wrote to the applicant requesting additional information including the following in relation to site drainage and flooding and overland flow:

### ***Site Drainage***

*Council's Drainage Engineer has advised that the following amendments are required to the stormwater design:*

- 1. The replacement of the dish drain gutter system with a drainage system that uses a combination of permeable pavers and permeable pit lids.*
- 2. Inlet pits designed to prevent large litter from entering the stormwater system are to be provided.*
- 3. The first flush rain water, including outflows from the car park is to be treated in rain garden areas.*

*Revised site drainage details including the above amendments are to be submitted.*

### ***Flooding and Overland Flow***

*Council's Drainage Engineer has advised that the flood impact assessment prepared by Worley Parsons has been prepared using methods that are acceptable to Council. However, the impact assessment indicates flood water levels of up to 600mm in the ground level car park. To mitigate the blocking of the stormwater channel by vehicles and debris the erection of a flow through barrier fence along the open stormwater channel is required as a consequence of the proposed development.*

*He has advised that the applicant is to design a flow through fence along the channel to the following standards:*

1. *It is to have vertical bars which will permit overland flows into the stormwater channel without blockage.*
2. *The fence is to have sufficient strength and capacity to prevent large debris entering the channel.*
3. *The fence is to be 75m long and is required to be constructed on the edge of the Kiaora Road stormwater channel.*

*During the preparation of the design the applicant is to confer with Sydney Water.*

A letter dated 15/2/12 was received from TPG which responded to the above matters. The letter was accompanied by a letter dated 25/1/12 from BG&E. Details for the construction of a proprietary steel fence including a safety barrier on the Kiaora Road side were submitted with the letter. It is noted that the 600mm water level in the carpark factors in blockage of the open stormwater channel.

Council's Technical Services provided a Referral Response dated 28/3/12 which commented on drainage and flooding. The additional information provided by the applicant on 15/2/12 is one of the documents referenced in that Referral Response. An extract is included in the External Referral Table in part 9.1 of this report and **Annexure 2** is the full Referral Response. It includes the following statement:

*Council's Technical Services Division is satisfied that adequate provision has been made for the disposal of stormwater from the land it is proposed to develop and complies with the provisions of Clause 25 (2) of WLEP 1995*

Sydney Water's letter of 10/2/12 includes the following comments on stormwater and servicing:

***Stormwater***

*The submitted stormwater drainage concept plan indicates that the applicant has intention to make (7x) 600 X 300 connections into the Sydney Water's stormwater channel.*

*The Applicant is required to investigate the existing stormwater connections and every attempt should be made to use these existing connections instead of making new connections. Evidence of this investigation is to be forwarded to Sydney Water for review.*

*Instead of having seven connections, the stormwater designer should integrate these connections into two connections. ....*

***Sydney Water Servicing***

*Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable.*

As mentioned earlier the recommendation of this report includes a condition for obtaining a s.73 Certificate.

The proposal is acceptable in terms of Clause 25(1) and (2).



### **11.6.10 Clause 25A Classification and reclassification of public land as operational land**

Clause 25A(1) provides:

*The public land described in Schedule 4 is classified, or reclassified, as operational land for the purposes of the Local Government Act 1998, subject to this clause.*

Clause 25A(2) provides:

*The amendments made by the Local Government Amendment (Community Land Management) Act 1998 to section 30 of the Local Government Act 1993 do not apply to the land described in Part 1 of Schedule 4.*

Part 1 Land classified, or classified, under original section 30 of Local Government Act 1998 of Schedule 4 identifies land known as the Kiaora Lane Car Park, the Anderson Street Car Park, the former Telecom site and 1 Kiaora Road. These properties form part of the Kiaora Lands development site and which are in the ownership of Woollahra Municipal Council. The inclusion of the land in Part 1 of Schedule 4 clarifies that the provisions of the *Local Government Act 1998*, part 2, Division 2 *Use and management of community land* do not apply to such land.

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

Clause 25D(2) requires development consent for certain works depending on the class of the land as shown on the Acid Sulfate Soils Planning Map upon which the development is proposed to be carried out. The land which forms the Kiaora Lands development site is mostly shown as class 2 on the map. Some of the land, generally the south eastern part of the site, is shown as class 3. On class 2 land works below existing ground level and works by which the watertable is likely to be lowered require consent. On class 3 land works beyond 1 metre below existing ground level and works by which the watertable is likely to be lowered beyond 1 metre below existing ground level require consent.

Clause 25D(3) *Consideration for consent authority* provides:

*The Council must not grant consent required by this clause unless it has considered:*

- (a) the adequacy of an Acid Sulfate Soils Management Plan prepared for the proposed development in accordance with the Acid Sulfate Soils Manual, and*
- (b) the likelihood of the proposed development resulting in the discharge of acid water, and*
- (c) , (d) (Repealed)*

A report, *Updated report on acid sulphate soil management plan*, prepared by Douglas Partners, dated 18/2/10, project 36280.02-3 was submitted with the DA. This report was reviewed by Council's Environmental Health Officer as part of a referral response. The Environmental Health Officer's comments in relation to the report include:

*The above reports (earlier reports by Coffey Geosciences P/L and Douglas Partners P/L) have found that potential Acid sulphate Soils (PASS) exists across the entire development site. ....*

*The 'Updated Report on Acid Sulfate Soil Management Plans: Kiaora Place, Double Bay (Project No. DIH:jib36280.02-3, 18 February, 2010)' states that management of potential acid sulphate soils during excavation and construction phases of the development will require monitoring, auditing inspection and sampling of both the soils and groundwater, or leachates, to maintain acceptable levels of acidity.*

*It should be noted that the preferred treatment method of acid sulphate soils will require leachate holding ponds of 2 day volume capacity constructed at suitable locations in relation to any treatment areas. Provision is also being made for truck wash down water to be directed to a leachate collection pond.*

The Environmental Health Officer recommended a condition be imposed on any consent for the management of acid sulphate soils in accordance with the *Updated report on Acid Sulfate Soil Management Plans*, prepared by Douglas Partners. A condition to this effect has been included in the recommendation of this report, see **condition E.31**.

Subject to the imposition of the condition recommended by Council's Environmental Health Officer the proposal is considered to be satisfactory regarding cl.25D.

#### **11.6.12 Clauses 26-33 Heritage and conservation area provisions:**

The Kiaora Lands development site does not contain any heritage items and is not within a heritage conservation area. The site is adjoined by a heritage item being the Golden Sheaf Hotel, 429-431 New South Head Road. The relevant heritage provision is cl.27 *Development in the vicinity of heritage items, heritage item group, heritage conservation areas, archaeological sites or potential archaeological sites*. It provides as follows:

*The Council must take into consideration the likely effect of the proposed development on the heritage significance of a heritage item, heritage item group, heritage conservation area, archaeological site or potential archaeological site, and on its setting, when determining an application for consent to carry out development on land in its vicinity.*

A heritage report was submitted with the DA. The report is by Graham Brooks and Associates (GB&A), titled *Heritage assessment & heritage impact assessment for Kiaora Lands redevelopment, Double Bay*, dated September 2011. GB&A also submitted a letter to supplement the report, *Re: referral response – pre DA lodgement heritage, clause A2.3.2.4 New South Head Road* and dated 18/10/11.

Council's Heritage Officer reviewed the GB&A heritage report and letter in a referral response dated 10/2/12. The referral response concludes that the application is generally acceptable and recommends conditions relating to the plant rooms on the roof of the New South Head Road building, reuse of sand stone from existing buildings to be demolished, retention/relocation of the Davis Cup plaque, an interpretive plaque for the 'Old Telephone Exchange' and archival recording of buildings to be demolished.

Subject to the conditions as recommended by the Heritage Officer being imposed the proposal is considered to be satisfactory in terms of cl.27, see **conditions C.1a), E.30, F.27 & F.30**.

An independent urban design review of the proposal was undertaken on Council's behalf by Hassell. That review made the following comments regarding the impact on the heritage item:

#### ***Height of Library Building***

*The western portion of the Library Building (16.83m to 19.9m) does not comply with the maximum height limit of WLEP (16.5m) nor the DBCDCP which recommends that the western portion have a maximum height of 14m having regard to the heritage qualities of the neighbouring hotel. The SEPP 1 Objection accompanying the DA seeks to justify the height exceedence on the basis that the additional height is 'consistent with surrounding development' and will not have visual or amenity impacts on the streetscape or the environment.*

*It is considered that the height exceedence is acceptable, primarily as it relates to the plant room (19.9m) which is setback 10m from the New South Head Road elevation. This additional height is not visible from the New South Head Road elevation and therefore does not diminish the streetscape presentation.*

*However, the additional height does exacerbate the visual dominance of the western façade of the building. This elevation will be visible from New South Head Road, Kiaora Lane and from within the neighbouring heritage hotel. It is also likely to remain exposed for some time, being adjacent to the heritage hotel.*

*As shown below, the blandness of the western elevation is not a desirable outcome. The lack of the design detail combined with the location of the plant on the western boundary exacerbates the visual dominance of this wall when viewed from the public domain. **It is recommended that the façade treatment of this wall be reviewed to minimise its visual intrusion and that the plant be setback from the western boundary as to not be visible from the public domain or intrusive on the neighbouring hotel.***

**Nettletontribe's** response to the matters raised by Hassell includes the following in relation to the above recommendation:

*Below is our proposed modification of the proposed western elevation which responds to the recommendation as follows:*

- 1. Retain a face brick masonry façade to the same height as the existing masonry wall abutting the neighbouring heritage hotel and reinstate the landscape and decorative elements as existing.*
- 2. Above the face masonry retain the rendered and painted face but introduce shadow banding to match New South head Road and Kiaora Lane facades.*
- 3. Setback roofplant 3m from Western boundary and lighten the colour treatment.*
- 4. Refer to SK574 attached.*



The response from **nettletontribe** is considered to satisfactorily address the recommendations of the Hassell urban design review regarding the Golden Sheaf Hotel.

## **12. DRAFT AMENDMENTS TO STATUTORY CONTROLS**

### **12.1 Draft State Environmental Planning Policy (Competition) 2010**

The Draft Competition SEPP aims to promote economic growth and competition and to remove anti-competitive barriers in environmental planning and assessment law. It contains provisions which prevent a consent authority from taking into consideration the commercial viability of a proposed commercial development in determining a DA and the impact on the commercial viability of other commercial development.

It also provides that restrictions in environmental planning instruments and development control plans on the number of a particular type of retail premises or the proximity of a particular type of retail premises to other retail premises do not have effect.

The provisions of the Draft Competition SEPP are relevant to the assessment of this DA.

## **13. DEVELOPMENT CONTROL PLANS (DCP)**

This part contains an assessment of the proposal against the relevant provisions of the applicable DCPs which apply to the land and to the proposed development. Existing residential properties in Kiaora Road and Patterson and Anderson Streets are on land covered by the Woollahra Residential DCP. However that DCP does not apply to non-residential development. As the proposed development is non-residential the provisions of the Woollahra Residential DCP are not relevant and are therefore not assessed.

### **13.1 Double Bay Centre Development Control Plan (Double Bay Centre DCP)**

On 10/6/11 the Double Bay Centre DCP (amendment no. 3) came into effect. This coincided with the gazettal of WLEP (amendment no. 67). The objectives of the Double Bay Centre DCP (amendment no.3) are:

- (a) To amend the precinct-specific and general planning and urban design controls for the land known as the Kiaora Lands site, and*
- (b) To amend the boundaries of the land known as Kiaora Lands*

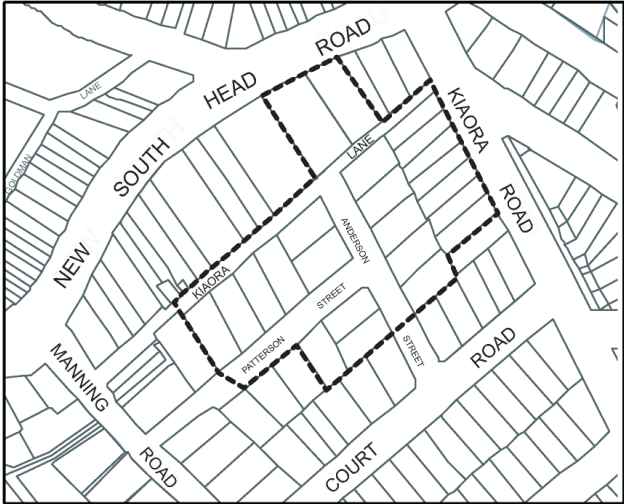
Clause 1.11.7 provides:

#### ***1.11.7 Kiaora Lands***

*Refer to Appendix 2 for controls relating to development within the Kiaora Lands site. The provisions of Appendix 2 prevail over the diagrams, figures, controls and other provisions in Parts 3, 4 and 5 that relate to Kiaora Lands unless otherwise specified.*

The controls which principally apply to the Kiaora Lands development are in Appendix 2, as inserted by Double Bay Centre DCP (amendment no. 3). The following table contains an assessment of the proposal under Appendix 2 of the Double Bay Centre DCP.

## Double Bay Centre Development Control Plan 2002 (amendment 3) – Appendix 2 Assessment Table

<p style="text-align: center;"><b>DBCDCP 2002 (amendment 3)</b> <b>APPENDIX 2</b></p>
<p style="text-align: center;"><b>A2.1 Kiaora Lands site</b></p> <div style="text-align: center;">  <p>--- Site Boundary</p> </div>
<p style="text-align: center;"><b>A2.2 Objectives for development of the Kiaora Lands site</b></p> <p><i>The objectives for development of the Kiaora Lands site are:</i></p> <ul style="list-style-type: none"> <li>•To maximise the public benefit from ownership and development of the Council owned lands that form part of the site.</li> <li>•To develop a high quality public domain that demonstrates a high standard of planning, urban design and landscape architecture.</li> <li>•To protect and enhance the commercial role of the Double Bay Centre both locally and generally throughout Metropolitan Sydney.</li> <li>•To provide a catalyst for increased business activity and private sector development in Double Bay.</li> <li>•To increase the attractiveness of Double Bay as a place to live, work and shop.</li> <li>•To improve traffic and pedestrian safety in Kiaora Lane.</li> <li>•To minimise the effects of traffic, carparking and loading on local residents.</li> <li>•To provide sufficient accessible and safe public and private carparking for development on the site.</li> <li>•To provide additional public carparking that assists with meeting future needs within the Double Bay Centre.</li> <li>•To establish high quality community facilities and public domain.</li> <li>•To establish high quality commercial and retail development, including an expanded supermarket.</li> <li>•To integrate the new private and public domain development with Double Bay's existing public spaces and built form.</li> <li>•To maintain or improve the amenity of adjoining residential areas and to protect the surrounding environment.</li> <li>•To minimise the impact of development on adjoining properties and properties in the immediate locality.</li> <li>•To ensure that development on private and public land is accessible.</li> <li>•To provide a prominent public connection between Kiaora Lane and the public spaces of Knox Street and Guilfoyle Park.</li> <li>•To ensure that the development meets best practice standards in environmentally sustainable design.</li> </ul>

<b>A2.3.2 Street character</b>	
<b>A2.3.2.1 Kiaora Road</b>	
<p><b>Existing character</b>  <i>The Kiaora Road section of the Kiaora Lands site is currently residential and is dominated by modest scaled attached and detached bungalows. It is located opposite the Jamberoo Creek stormwater channel, which has been identified as one of several urban projects in the Double Bay Centre Public Domain Improvements Plan. Kiaora Road forms an edge of the commercial centre and reads as a continuum of the important Post Office intersection on New South Head Road.</i></p>	
<p><b>Desired future character objectives</b>  <input type="checkbox"/> <i>Ensure that the built form on Kiaora Road is integrated with the desired future character of the commercial centre.</i>  <input type="checkbox"/> <i>Create a distinctive and identifiable edge to the commercial centre.</i></p>	
<b>Strategy</b>	<b>Assessment</b>
<input type="checkbox"/> <i>Provide a highly articulated street wall building.</i>	<p>Applicant's comment  <i>The proposed development is considered to be consistent with these "Kiaora Road Strategy" requirements.</i></p> <p>The façade is built to the street alignment, apart from recesses at the southern end, and is highly articulated. It features a vertical lift shaft and a central void at 1<sup>st</sup> floor. The palette of materials/colours includes, at street level, face brick with glazed and reused timber panels with curtain wall glazing/aluminium screens on the upper level. The roof level car park will be behind a paint finished perimeter wall/facia and shade structures with projecting support columns.</p> <p>The proposed building will be a highly articulated street wall building.</p>
<input type="checkbox"/> <i>Strengthen the built form at the corner of Kiaora Road and Kiaora Lane.</i>	<p>Applicant's comment  <i>The proposed development is considered to be consistent with these "Kiaora Road Strategy" requirements.</i></p> <p>At this corner the building will feature a full height curve, framed shopfront glazing at street level, a cantilevered awning, and curtain wall glazing behind horizontal louvers on the upper level.</p> <p>This will represent a strong built form at the corner.</p>
<input type="checkbox"/> <i>Design loading docks to minimise conflicts between pedestrian and vehicles. Pedestrians are to be given priority where carpark and loading dock crossovers occur.</i>	<p>Applicant's comment  <i>The proposed development is considered to be consistent with these "Kiaora Road Strategy" requirements.</i></p> <p>The proposal includes a pedestrian refuge between the loading dock and car park entries/exits. The footpath in front of the driveways incorporates pedestrian paving.</p> <p>The plans show doors to services and bike racks encroaching onto Kiaora Road. These should be redesigned so as not to encroach, see <b>condition C.1b</b>).</p> <p>The loading docks are designed to minimise conflicts between vehicular and pedestrian traffic.</p>
<input type="checkbox"/> <i>Provide new street planting to contribute to the tree lined nature of Kiaora Road.</i>	<p>Applicant's comment  <i>The proposed development seeks to maintain two trees at the Kiaora Road frontage to contribute to the visual amenity of Kiaora Road whilst creating a distinctive and identifiable edge to the commercial centre as identified in the Desired future character objectives for the road. Any street trees impacted can be replaced as required.</i></p> <p>The 6 existing trees adjacent to the Kiaora Road frontage</p>

	<p>of the Kiaora Lands development site are proposed to be removed, being 1 x Australian Teak (ref. no. 32), 2 x <i>Eucalyptus botrioides</i> (Southern Mahogany) (ref. nos. 33 &amp; 34), 2 x Chinese Tallow Tree (ref. nos. 36 &amp; 37) and 1 x Jacaranda (re. no. 50).</p> <p>Two (2) new trees (<i>Eucalyptus botrioides</i> (Southern Mahogany)) are to be planted in Kiaora Road toward the northern end of the property frontage.</p> <p>Council's Tree Officer commented as follows in relation to the species selection within Kiaora Road:</p> <p><i>The proposed re-planting of Eucalyptus botrioides along Kiaora Road shown on the submitted landscape concept plan is not advised. Although there is some merit in re-enforcing the existing theme (which is predominantly Eucalyptus botrioides and Eucalyptus robusta) the species becomes scrappy at maturity and commonly produces and drops deadwood. In a high target, retail shopping area the planting of this species should be avoided altogether. As with Kiaora Lane there are more favourable and reliable options for Kiaora Road. These include the use of Angophora costata (Smooth Barked Apple), Jacaranda mimosifolia (Jacaranda) or Flindersia australis (Crows Ash). Condition C.3 of this referral response also requires <u>amendments are made to the nominated species selected for Kiaora Road.</u></i></p> <p>The existing Southern Mahogany trees (ref. nos. 33 &amp; 34) are included in the table to A.2.3.2.6 of the DBCDCP as trees to be retained. Council's Trees Officer's comments include the following in relation to these trees:</p> <p><i>This tree (ref. no. 34), ....., stands at the entrance to the proposed Kiaora Road loading dock and would be very difficult to retain unless significant modifications to the design of the proposal were made.</i></p> <p><i>On the other hand tree (ref. no. 33) ..... can be retained and protected in accordance with the recommendations within the supplied arborist's report. <u>In this regard an amendment should be made to the supplied tree retention/removal plan which includes the retention of Tree 33.</u></i></p> <p>Subject to adherence to the Tree's Officer recommendations the proposed street tree planting to Kiaora Road is considered to be satisfactory.</p>
<b>A2.3.2.2 Patterson Street</b>	
<p><b>Existing character</b> Patterson Street is currently a leafy residential street with detached single storey dwellings on the south side with the Council carpark and a three storey residential flat building on the north side.</p>	
<p><b>Desired future character objectives</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Allow the closure of the eastern part of Patterson Street to accommodate a suitable footprint for a supermarket and carparking.</li> <li><input type="checkbox"/> Reinforce the existing leafy character at the western part of Patterson Street.</li> <li><input type="checkbox"/> Provide a transition between the commercial centre and the adjacent residential areas.</li> </ul>	

Strategy	Assessment
<p><input type="checkbox"/> Retain the existing London Plane tree on the northern side of Patterson Street opposite No.4 Patterson Street.</p>	<p>Applicant's comment <i>Refer to Landscape Concept Plan and Arborist Report included at appendix C and Appendix M respectively.</i></p> <p>This London Plane tree is proposed to be removed. It is on the northern side of Patterson Street at the location of the proposed vehicular entry to the carpark.</p> <p>The arborist's report submitted with the DA includes the following comments in relation to this tree:</p> <p><i>The visual impact of the proposed removal of Tree 4 will be buffered by the presence of Tree 8 on the eastern side of Patterson Street. (3.1.2)</i></p> <p><i>Tree 4 had excavation proposed within its SRZ on 2 bearings. Up to 58% of the SRZ was likely to be lost as a result of this excavation. This tree has a shallow spreading root plate (Photo C) which would not tolerate the proposed level of excavation. There was also a heavy canopy incursion resulting from the proposed building wall adjacent. The canopy pruning required to accommodate this wall would have resulted in a significant proportion of the canopy being removed. Tree 4 was tested for internal decay in May, 2003 and at that time was recommended for removal within 10 years. (4.4.2)</i></p> <p>Council's Tree Officer commented on the removal of this tree as follows:</p> <p><i>All of the London Plane trees located in Patterson and Anderson Streets were tested for internal decay in 2003. A number of these trees were recommended for removal either immediately or within the following 10 years. Tree 4 which is listed as a tree to be retained within the Kiaora lands development control plan strategy was recommended for removal within the following 10 years in the 2003 report. This tree is located at the proposed main Patterson Street entrance into the development. There is no argument regarding the contribution all of the London Plane trees make to the overall amenity and character of the precinct. However, this tree's existing location in relation to the proposed Patterson Street vehicle entrance would make it extremely difficult to retain unless significant modifications were made to the development, specifically the re-location of the Patterson Street vehicle entrance. <u>In light of the 2003 recommendation to remove the tree within the next 10 years and the proposed location of the Patterson Street vehicle entrance, regardless of its listing within the Kiaora lands Development Control Plan strategy schedule as a tree to be retained this tree should be removed as per the tree removal/retention plan.</u></i></p> <p>Having regard to the above assessment removal of this tree is supported.</p>
<p><input type="checkbox"/> Retain existing street trees where feasible and supplement with new street tree planting.</p>	<p>Applicant's comment <i>Refer to Landscape Concept Plan and Arborist Report included at appendix C and Appendix M respectively.</i></p> <p>Apart from the removal of the London Plane tree, discussed above, existing street trees on Patterson Street that are not in the footprint of the proposed building are to</p>



	<p>be retained. A new London Plane tree is to be planted at the Patterson Street end of the pedestrian link between Kiaora Lane and Patterson Street at the western end of the development. New native tree plantings are also proposed on the southern side of the vehicular exit at eastern end of Patterson Street.</p> <p>The proposed retention/supplementation of trees in Patterson Street is considered to be satisfactory.</p>
<p><input type="checkbox"/> <i>Minimise conflict between pedestrians and vehicles.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this requirement.</i></p> <p>The development includes the exit from the Dan Murphys loading dock and a double lane entry to the car park on the northern side of Patterson Street. A double lane exit from the car park will be at the eastern end of Patterson Street, i.e. the termination of Patterson Street. A pedestrian link from Kiaora Lane to Patterson Street, at the western end of the development, will also be located on the northern side of Patterson Street.</p> <p>Pedestrian refuges are proposed between the loading dock and the car park entrance and between the car park entrance and exit. As cars will leave the car park via a boom gate and will not have to make a turn into Patterson Street there will be a high level of pedestrian visibility. Cars entering the car park will need to make a left turn across the footpath and will also have good pedestrian visibility.</p> <p>The Dan Murphys loading dock is designed to enable delivery vehicles to enter and exit in a forward direction and for all manoeuvring to occur within the loading dock. Entry will be from Kiaora Lane with delivery vehicles exiting via Patterson Street.</p> <p>According to the applicant's traffic report (by Halcrow dated 19/10/11): <i>A minor loading area is also proposed to the east (sic) of the car park. This would have one loading bay for trucks up to an 8.8m medium rigid truck. Truck accessing this loading area would enter from Kiaora Lane and exit to Patterson Street. (3.3)</i></p> <p>In response to Council's letter 13/1/12 requesting the applicant to provide additional information, including additional information on the number of heavy vehicles expected to service the site, Halcrow's letter of 10/2/12 states: <i>Dan Murphy is expected to receive two to four deliveries per week day and one delivery on Saturday. These would be made by a 12.5m rigid truck. (6)</i></p> <p>The delivery vehicle swept paths shown on the architectural plans are based on a 12.5m rigid truck. Notwithstanding the discrepancy with the truck size, the small number of exiting vehicles from the loading dock will not cause a conflict with pedestrians.</p> <p>Pedestrian access to residential properties in Patterson Street will not require pedestrians to walk past the</p>

	<p>development's proposed vehicular entries/exits.</p> <p>The applicant's traffic report indicates that the proposed traffic flow in Patterson Street will increase significantly (i.e. 2 way movements from 67 to 283 vph). However, it would not exceed the RTA's environmental guideline for residential streets (i.e. 300 vph) beyond which local pedestrian amenity starts to deteriorate.</p>
<p><input type="checkbox"/> <i>Provide a dedicated pedestrian connection between Patterson Street and the carpark.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>There is a pedestrian connection to the carpark via the vehicular exit which flows from the footpath on the southern side of Patterson Street. Pedestrians can also access the carpark from Patterson Street via dedicated footpaths incorporated into the carpark's vehicular entry. Also, there is an option for pedestrians from Patterson Street to use the pedestrian link and enter the carpark from Kiaora Lane.</p> <p>The plans have been amended since the pre-DA meeting to relocate motor cycle parking within the carpark which would have interfered with the pedestrian connection from Patterson Street via the carpark's vehicular exit.</p> <p>Pedestrian connections between Patterson Street and the carpark are considered to be acceptable.</p>
<p><input type="checkbox"/> <i>Built form should be designed to contribute to the street. Outlook from the supermarket retailing area should be considered at the end of these streets as a means of providing surveillance along the street, hence increasing safety and animating and enlivening the building, particularly at night.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The urban design review undertaken on Council's behalf by Hassell makes the following recommendation in relation to the proposed design of the Patterson Street elevations:</p> <p><i>Façade detail of the western elevation to the Supermarket Building be revised to minimise visual bulk and provide a more sympathetic response to the suburban character of Patterson Street and to preserve the amenity of 4 Patterson Street. In addition, greater landscaping should be provided along this streetscape (i.e. adjacent to the car park egress to soften the appearance of this façade).</i></p> <p><b>Nettleton</b>tribe responded to the recommendations of the Hassell report by letter dated 28/3/2012. In relation to western elevation of the supermarket building the response was:</p> <p><i>We note that the properties at No.'s 4, 6 and 8 Patterson Street are the subject of Development Consent No. 06/0734-2 which is approved and is zoned Residential 2B. This development consent is for 7 3-storey attached houses above basement carparking. The overall frontage length to Patterson Street is some 42 metres and the height approximately 11.5 metres. Accordingly we fail to see the relevance of the reference to, "the suburban character of Patterson Street". We do, however, acknowledge that the desired future residential character of Patterson Street is one of attached housing of similar height to the subject application. The</i></p>

	<p><i>visual character of the current consent is consistent generally with the residential character of typical attached houses. We therefore have reviewed the elevational treatments of the supermarket building to Patterson Street to reinforce the vertical rather than horizontal building elements and residential finishers. Please refer to SK575 and SK576 attached to this response.</i></p> <p><i>We are also surprised by the comments regarding additional landscaping and show the relevant section of the landscape concept plan which is included in the subject development application which we believe achieves the intent of the recommendation. Please also refer to SK575 attached to this response which overlays the proposed landscape elements in context with the proposed development.</i></p> <p>The plans submitted with the <b>nettletontribe</b> response show the following changes:</p> <ul style="list-style-type: none"> <li>• On the western elevation, face brickwork replacing painted precast render on the ground level, a greater contrast of rendered and painted surfaces, the introduction of new external finishes to the northern stair enclosure and, an overlay of the proposed landscape treatment to the south of the carpark exit, i.e. in the setback area next to the eastern side of 4 Patterson Street</li> <li>• On the southern elevation, a reduction of aluminium cladding and an increase in face brickwork</li> </ul> <p>The response from <b>nettletontribe</b> is considered to satisfactorily address the matters raised in the Hassell urban design review</p> <p>Since the pre-DA a large window opening is now shown on the western elevation to Patterson Street from the supermarket and which directly overlooks Patterson Street. This is a positive change.</p>
<b>A2.3.2.3 Anderson Street</b>	
<p><b>Existing character</b> <i>Anderson Street is currently a leafy tree lined street with carparks to both sides at the northern end.</i></p>	
<p><b>Desired future character objectives</b>  <input type="checkbox"/> <i>Allow for the closure of part of the street to provide a suitable footprint for a supermarket and carparking.</i>  <input type="checkbox"/> <i>Reinforce the existing leafy character at the southern end of Anderson Street.</i></p>	
Strategy	Assessment
<p><i>Provide a dedicated pedestrian access and egress point between Anderson Street and the carpark.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Pedestrian access and egress to the carpark will be available from the eastern footpath of Anderson via the carpark's vehicular entry/exit. The point of pedestrian access/egress will align with the pedestrian link through the carpark from Kiaora Lane to Anderson Street.</p> <p>Pedestrian access and egress between Anderson Street and the carpark is considered to be satisfactory.</p>
<p><input type="checkbox"/> <i>Built form should be designed to contribute to the street. Outlook from the supermarket retailing area</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent</i></p>

<p><i>should be considered at the end of these streets as a means of providing surveillance along the street, hence increasing safety and animating and enlivening the building, particularly at night.</i></p>	<p><i>with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The building design incorporates landscaped setbacks on the southern elevation at ground and 1<sup>st</sup> floors. These are consistent with the applicable edge condition control. The setbacks are shown to be extensively landscaped at both ground and 1<sup>st</sup> floor.</p> <p>The ground floor is setback 7m from the end of Anderson Street. The 1<sup>st</sup> floor/supermarket is setback an additional 6.8m giving an overall setback of 13.8m . There are no openings proposed that would overlook Anderson Street from the supermarket retailing area. Internally the supermarket's 'back-of-house' facilities occupy the southern area of the floor plan. In order to provide some opportunities for the overlooking of Anderson Street a window could be required on the southern elevation of the 1<sup>st</sup> floor. However, it should be acknowledged that with the setbacks and landscaping proposed the effectiveness of such a window will be constrained. Further, such a window would not be to the supermarket's retailing area and may be perceived by the occupants of neighbouring residential properties as creating privacy issues. See <b>condition C.1e</b>).</p>
<p><b>A2.3.2.4 New South Head Road</b></p>	
<p><b>Existing character</b>  <i>The New South Head Road frontage is currently occupied by the single storey Woolworths supermarket. This building provides a blank single storey frontage which is setback from the back of pavement approximately 1.2m.</i></p>	
<p><b>Desired future character objectives</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinforce the street wall character of New South Head Road.</li> <li><input type="checkbox"/> Provide a built form that recognises, and is sympathetic to, the adjacent heritage item.</li> <li><input type="checkbox"/> Establish a new civic building and presence.</li> <li><input type="checkbox"/> Provide a new, clearly visible arcade which connects New South Head Road to development south of Kiaora Lane.</li> </ul>	
Strategy	Assessment
<ul style="list-style-type: none"> <li><input type="checkbox"/> Comply with the street edge profile specified in Part 5 of this DCP (Built form envelopes: Control Drawings). Except as stated in the following: <ol style="list-style-type: none"> <li>1. Clearly indicate the entry point to the arcade on the elevation. Refer to section A2.5.5.2 The new arcade.</li> <li>2. Setback the building to the west of the arcade at least 1.35m from the street boundary. Refer to edge condition D (West).</li> <li>3. Omit the 3.5m setback at the upper level of the New South Head Road frontage east of the arcade. Refer to edge condition D (East).</li> </ol> </li> </ul>	<p>Applicant's comment  <i>Refer to comments for A2.4 Figure 4 and A2.5.5.2 of this compliance table.</i></p> <p>The street edge profile specified in Part 5 for the New South Head Road building is shown in 5.5 Control Drawing 1. This drawing shows:</p> <ul style="list-style-type: none"> <li>• a continuous awning projecting over the New South Head Road footpath</li> <li>• area for articulation 2.4m depth</li> <li>• 3.5m setback for levels 3-5</li> <li>• 100% continuous build to line for levels 3-5</li> </ul> <p>The building includes a cantilevered glass awning, of variable width, which continues across the New South Head Road frontage except for a 1.2m gap at the western end of the frontage adjacent to the Golden Sheaf Hotel. This break in the continuity of the awning is considered to be acceptable having regard to the heritage significance of the Golden Sheaf Hotel. The relationship of the building to the Golden Sheaf Hotel is discussed in more detail in the referral response from Council's Heritage Officer.</p> <p>The New South Head Road elevation is highly articulated</p>

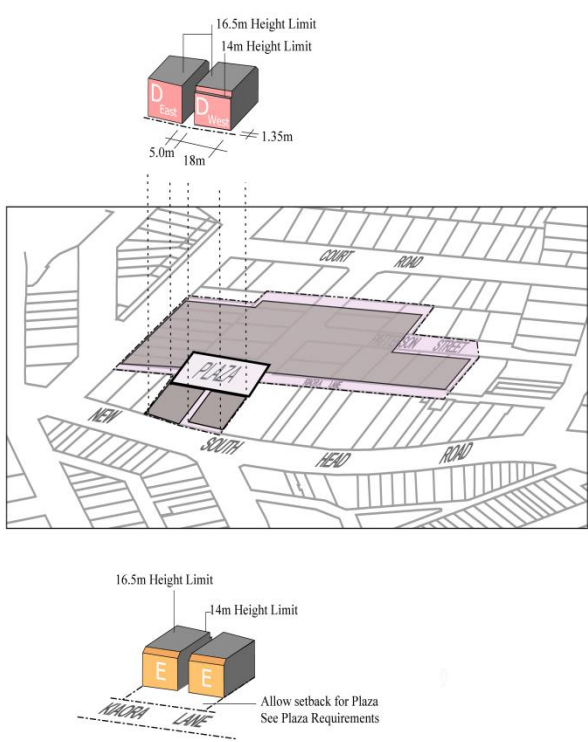
	<p>with a central arcade in the form of a full height atrium which is recessed from the alignment and in height. The façade is modulated through the use of projecting, horizontal, metal louvers with vertical supports in front of a glazed curtain wall.</p> <p>In relation to strategy item 1, the entry point to the arcade is clearly indicated on the arcade. The arcade satisfies the provisions of section A2.5.5.2 which is discussed in more detail later in this report.</p> <p>In relation to strategy item 2, the curtain wall enclosing the New South Head Road elevation to the west of the arcade is setback 1.35m from the street boundary. The projecting horizontal louvers and vertical supports are considered to be consistent with edge condition D (west).</p> <p>The building to the east of the arcade is built to the New South Head alignment at all levels and is satisfactory in terms of the exemption in strategy item 3 and with the edge condition D (east).</p>
<p><input type="checkbox"/> Provide a sophisticated high quality design response that reflects the civic role of the building.</p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The urban design review carried out on Council's behalf by Hassell raises issues with the design of the New South Head Road building in relation to its impact on solar access to the public plaza and the appearance of the western external wall adjacent to the Golden Sheaf Hotel. The review does not raise any issues with the New South Head Road design response.</p> <p>The building will be a landmark building by virtue of its proportions both in the context of the existing and desired future character objectives. The arcade will act as a public pedestrian thoroughfare to the proposed major public carpark and shopping precinct to the south.</p> <p>The design evolved as a consequence of substantial input from Brewwater Hjorth &amp; Partners who were commissioned by Council to review the design prepared by Woolworth's architects.</p> <p>The design response is considered to be satisfactory.</p>
<p><b>A2.3.2.5 Kiaora Lane</b></p>	
<p><b>Existing character</b> <i>The existing character of Kiaora Lane is compromised by its 'back of house' status, with loading vehicles, exposed on-site loading bays and rubbish bins. The lane lacks containment and activity on its south side due to the at-grade carpark. Pedestrian activity is generated by the carpark and the four existing arcades that feed onto the lane from New South Head Road. Narrow and inadequate pathways on the lane cause conflict between vehicles and pedestrians.</i></p>	
<p><b>Desired future character objectives</b> <input type="checkbox"/> To make Kiaora Lane into a significant part of the public domain within the Double Bay Centre. <i>The controls for Kiaora Lane are located in section A2.5.5 The new public domain.</i></p>	

Strategy				Assessment	
There is no stated strategy under A2.3.2.5				Applicant's response <i>The proposed development is considered to be consistent with these "Kiaora Lane Strategy" requirements.</i>  Refer to the assessment for A2.5.5.	
A2.3.2.6 Street trees					
Existing character <i>The existing character of Kiaora Lands is strongly influenced by the mature trees on the site.</i>					
Desired future character <input type="checkbox"/> Retain the tree lined character of streets on and surrounding Kiaora Lands.					
Strategy				Assessment	
Retain the following trees:				Applicant's comment <i>Refer to Landscape Concept Plan and Arborist Report included at Appendix C and Appendix M respectively.</i>  The DA proposes that 3 of the trees from the table of trees to be retained are to be removed. These are trees 1, 9 and 10 (these trees are reference nos. 4, 33 and 34 respectively in the applicant's arboist's report and on the landscape plans).  The proposed removal of these trees has been discussed earlier under A2.3.2.1 Kiaora Road in relation to trees 9 and 10 and under A2.3.2.2 Patterson Street in relation to tree 1.  Council's Tree Officer referral response includes the following in relation to these trees:  <b><u>Proposed removal of trees Tree 4, 33 and 34 listed as trees to be retained within the Kiaora lands Development Control Plan strategy to retain the tree lined character of streets on and surrounding Kiaora lands.</u></b> <i>There is some inconsistency between trees scheduled for removal on the submitted landscape plan and the tree removal/retention schedule and trees listed as those that should be retained within the Double Bay/Kiaora lands Development Control Plan's strategy to retain the tree lined character of streets on and surrounding Kiaora Lands (A2.3.2.6). Specifically, Tree 1 within the Double Bay DCP schedule (*listed as Tree 4 within the submitted arboricultural report), Tree 9 (*listed as Tree 33 within the supplied arboricultural report) and Tree 10 (*listed as tree 34 within the supplied arboricultural report) are all listed as trees to be removed on the submitted landscape and tree retention/removal plan.</i>  <i>All of the London Plane trees located in Patterson and Anderson Streets were tested for internal decay in 2003. A number of these trees were recommended for removal either immediately or within the following 10 years. Tree 4 which is listed as a tree to be retained within the Kiaora lands development control plan strategy was recommended for removal within the following 10 years in the 2003 report. This tree is located at the proposed main Patterson Street entrance into the development. There is no argument regarding the contribution all of the London Plane trees make to the overall amenity and character of the precinct. However, this tree's existing location in relation to the proposed Patterson Street vehicle entrance would make it extremely difficult to</i>	
	Tree type	Botanical name	Location		
1	London Plane	<i>Plantanus orientalis</i>	Road verge north side of Patterson Street approx. 85m east of Manning Road		
2	London Plane	<i>Plantanus orientalis</i>	Road verge south side of Patterson Street approx. 85m east of Manning Road		
3	London Plane	<i>Plantanus orientalis</i>	Road verge south side of Patterson Street approx. 65m east of Manning Road		
4	London Plane	<i>Plantanus orientalis</i>	Road verge north side of Patterson Street approx. 45m east of Manning R Road		
5	London Plane	<i>Plantanus orientalis</i>	Road verge east side of Anderson Street approx. 40m north of Court Road		
6	London Plane	<i>Plantanus orientalis</i>	Road verge west side of Anderson Street approx. 35m north of Court Road		
7	London Plane	<i>Plantanus orientalis</i>	Road verge west side of Anderson Street approx. 20m north of Court Road		
8	London Plane	<i>Plantanus orientalis</i>	Road verge east side of Anderson Street approx. 15m north of Court Road		
9	Swamp Mahogany	<i>Eucalyptus robusta</i>	Road verge west side of Kiaora Road approx. 20m south of Kiaora Lane		
10	Southern Mahogany	<i>Eucalyptus botryodios</i>	Road verge west side of Kiaora Road approx. 30m south of Kiaora Lane		
11	Oak	<i>Genus quercus</i>	Road verge south side of Kiaora Lane approx. 55m east of Manning Road		

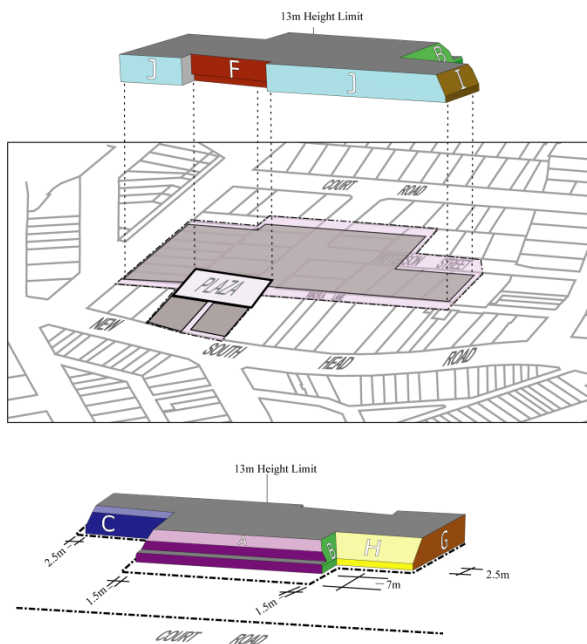
	<p><i>retain unless significant modifications were made to the development, specifically the re-location of the Patterson Street vehicle entrance. <u>In light of the 2003 recommendation to remove the tree within the next 10 years and the proposed location of the Patterson Street vehicle entrance, regardless of its listing within the Kiaora lands Development Control Plan strategy schedule as a tree to be retained this tree should be removed as per the tree removal/retention plan.</u></i></p> <p><i>Similarly, tree numbered 34 within the submitted arboricultural assessment report is listed as Tree 10 within the Double Bay Development Control Plan strategy as a tree to be retained. This tree, similar to the London Plane tree in Patterson Road (Tree 4), stands at the entrance to the proposed Kiaora Road loading dock and would be very difficult to retain unless significant modifications to the design of the proposal were made.</i></p> <p><i>On the other hand tree listed as Tree 9 within the Double Bay Development Control Plan strategy (listed as Tree 33 on the submitted tree retention/ removal plan) can be retained and protected in accordance with the recommendations within the supplied arborist's report. <u>In this regard an amendment should be made to the supplied tree retention/removal plan which includes the retention of Tree 33.</u></i></p> <p><i>In relation to tree 9 the arborist's report includes the following:</i></p> <p><b><i>4.2.6 Tree 33 (tree 9) has the proposed office/lobby and fire control room within its SRZ.</i></b>  <i>There is an existing masonry wall located at the property boundary. The footings of this structure are likely to have confined root growth into the area where building is proposed. No significant impact to roots is expected as a result of building works. There may be some canopy overhang in the area of the proposed building wall. Some minor canopy pruning may be required (refer to Section 4.2.9).</i></p> <p><b><i>4.2.9 Canopy Pruning: All Retained Trees</i></b>  <i>..... Tree 33 may require crown lifting as per Section 7.3.3 (AS4373-2007). ....</i></p> <p><i>Having regard to the arborist report submitted with the DA and the comments of Council's Tree Officer approval should be granted for the removal of trees 1 and 10. Approval should not be granted for the removal of tree 9. Conditions of consent as recommended by Council's Tree Officer should also be imposed.</i></p>
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## 2.4 Built form envelopes

*Building envelopes illustrate the limits of permissible building height, depth and location and are described on the control drawings for New South Head Road and Kiaora Lane/Patterson Street.*

Envelope control	Assessment
 <p><b>Edge conditions</b></p> <p>D (East) – Boundary edge façade up to 16.5 metres to the east part of the frontage.</p> <p>D (West) – A 1.35 metre setback to west part of frontage up to 14 metres and with a 3.5 metre setback up to 16.5 metres.</p> <p>E – 32° inclined plane springing from the southern edge of the Plaza. Frontage a minimum of 18 metres from the southern edge of the Plaza. Variation to the inclined plane may be considered if the principal dining /public area on the south side of the plaza has sunlight access at 12 noon in mid winter.</p>	<p>Applicant's comment <i>The proposed development has been designed to comply with the edge conditions, refer to the Architectural Drawings included at Appendix B.</i></p> <p>An assessment of building envelopes is made in relation to the individual edge condition diagrams which follow.</p> <p>The maximum building heights shown in the diagrams correspond with the maximum height development standards in WLEP (amendment no. 67). These are the subject of objections under SEPP 1 which have been discussed in the assessment report, see part 11.3. The assessment of the SEPP 1 objections concludes that the compliance with the development standards is unreasonable and unnecessary in the circumstances. That assessment includes, in part, consideration of the maximum height control objectives as contained in the WLEP. Those objectives are taken to equally apply to the maximum building height limits in the DBCDCP envelope controls.</p>





#### Edge conditions

A – 32° inclined plane springing from 3.5 metres south of the boundary, and with a building setback from the boundary of 7.0 metres for the ground floor level and 13.8 metres for levels above.

B – 64° inclined plane springing from the boundary, and a building setback of 1.5 metres from the boundary.

C – 32° inclined plane springing from the southern side of Patterson Street.

F – Plaza edge façade up to 13 metres. 2 metre deep colonnade at ground level.

G – Kiaora Road edge frontage up to 13 metres.

H – 45° inclined plane springing from a point 3 metres above ground level and 2.5m from the boundary to the adjacent property.

I – 64° inclined plane springing from the boundary, and a building setback of 2.5 metres from the boundary.

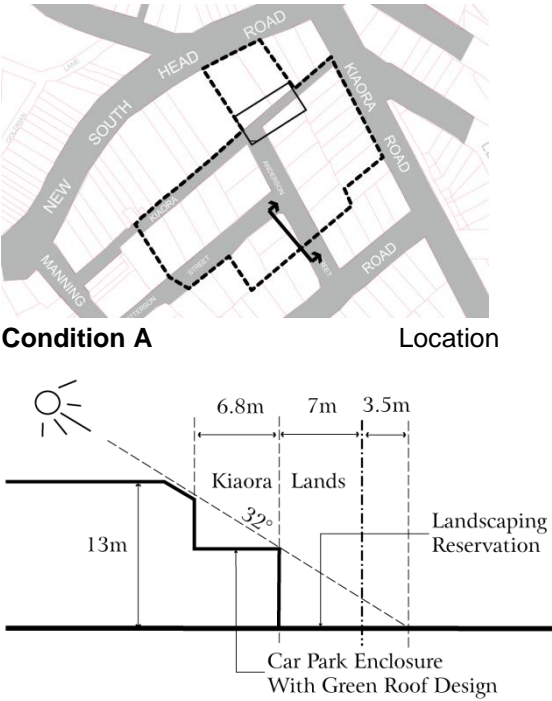
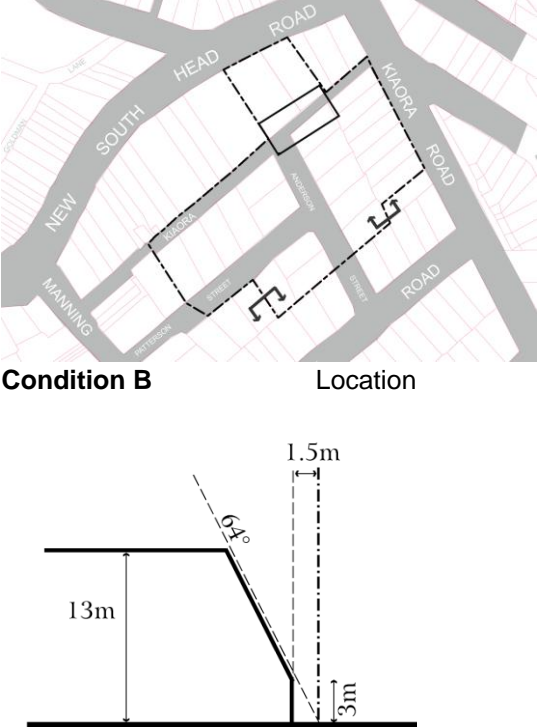
J – Kiaora Lane edge frontage up to 13m. A minimum of 7.9m from northern boundary of Kiaora Lane.


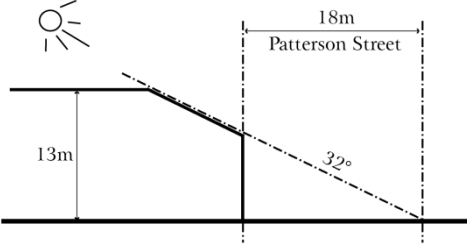
#### Applicant's comments


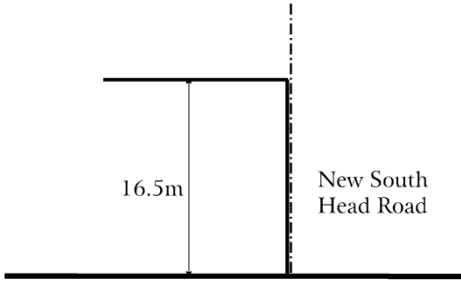
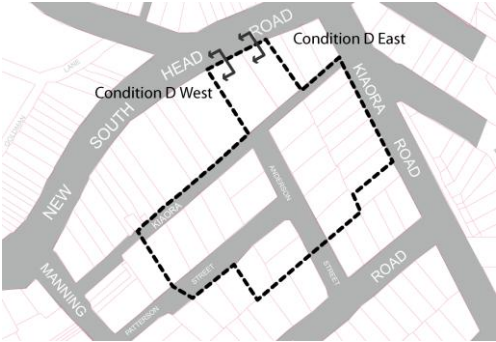
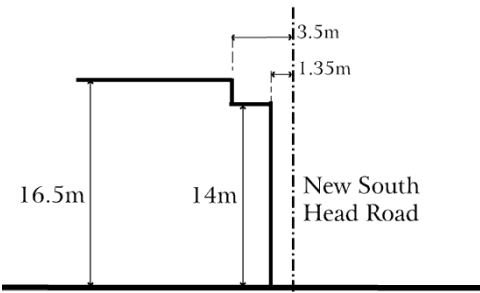
*Refer to the comments for each condition in this compliance table.*

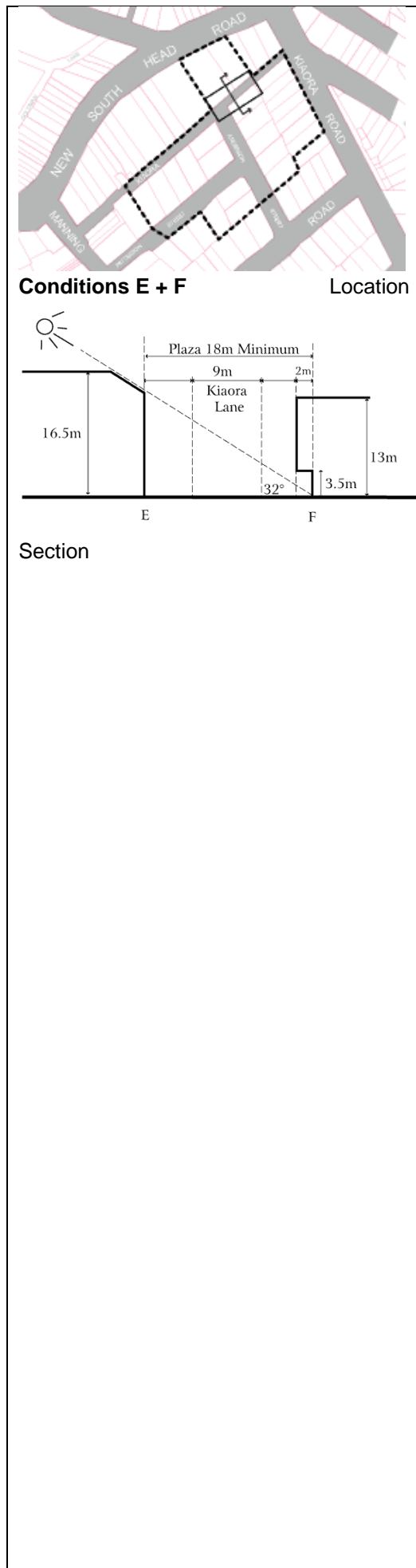
An assessment of building envelopes is made in relation to the individual edge condition diagrams which follow.

The maximum building heights shown in the diagrams correspond with the maximum height development standards in WLEP (amendment no. 67). These are the subject of objections under SEPP 1 which have been discussed in the assessment report, see part 11.3. The assessment of the SEPP 1 objections concludes that the compliance with the development standards is unreasonable and unnecessary in the circumstances. That assessment includes, in part, consideration of the maximum height control objectives as contained in the WLEP. Those objectives are taken to equally apply to the maximum building height limits in the DBCDCP envelope controls.

 <p><b>Condition A</b> Location</p> <p>Section</p>	<p><b>Applicant's comment</b> <i>The proposed development complies with Condition A, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Architectural plan 3109_DA_031-C, section A-A indicates compliance with this edge condition. The top of the perimeter wall to the roof level (RL13.7AHD) is shown to be on the 32 degree inclined plane. At the western end of the southern elevation there is a stair bulk head, the top of which is RL14.3AHD, which would exceed the 32 degree inclined plane by 600mm. The bulkhead has dimensions of 5.5m x 4.5m and is a minor element in the context of the of the overall part of the building subject to edge condition A. Shadow diagrams indicate that the breach of the 32 degree plane by the bulkhead will result in negligible solar access implications for neighbouring residential properties to the south. The stair could be redesigned/relocated to comply however this may require changes to the internal floor plan which are not considered warranted.</p>
 <p><b>Condition B</b> Location</p> <p>Section</p>	<p><b>Applicant's comment</b> <i>The proposed development complies with Condition B, despite the proposal having a minor breach of the building height plane associated with the roof enclosure of a fire stair at the Patterson Street edge. This has been illustrated in the Architectural drawings included at Appendix B.</i></p> <p><i>This breach is not considered to result in any unreasonable adverse impacts in terms of amenity, as the shadow cast from this stair will be onto the roof top car parking area. The enclosure of the stair can assist amenity such as acoustics and privacy.</i></p> <p><i>In addition, the variation of the requirement will not impede the attainment of the desired future character or objectives for Patterson Street building height plane, being the "closure of the eastern part of Patterson Street to accommodate a suitable footprint for a supermarket and car parking; reinforcing the existing leafy character at the western part of Patterson Street; and providing a transition between the commercial centre and the adjacent residential areas". Besides this the "built form principles south of Kiaora Lane", that being the "functional and operational requirements of large retail outlets should not compromise the qualities of the adjacent public domain; the built form should not compromise the amenity of adjoining properties and the built form should be compatible with producing attractive public domain" will also be maintained.</i></p> <p><i>Should this remain an issue, the roof element on the stairs and the extent of the breach could be deleted via condition.</i></p> <p>The objectives referred to by the applicant for Patterson Street are the DBCDCP desired future character objectives. There are no specific objectives for the</p>

	<p>building envelope controls. No technical information has been provided to verify the acoustic impact of removing the roof element.</p> <p>The stair is on an internal angle of the building at the junction where an inclined section of composite panel wall and a curved section of perforated aluminium wall would otherwise meet. The stair enclosure, by virtue of its height as well as its form, provides an architectural transition between these elements.</p> <p>As the stair enclosure is not in close proximity to neighbouring residential properties (the nearest being on the opposite side of Patterson Street) it will not cause undue amenity impacts.</p> <p>In the circumstances this departure from the edge condition B is supported.</p> <p>At the eastern end the setback from the rear boundary of 8 Kiaora Road is a minimum of 2.5m and is therefore in excess of the 1.5m control. The setback of the 1<sup>st</sup> floor increases to 3.745m at the level of the 1<sup>st</sup> floor level slab and 7.565m at the roof level (i.e. the perimeter wall of the carpark). Although the perimeter wall complies with the 62 degree inclined plane the upper part of the 1<sup>st</sup> floor (max. RL 11.85) slightly encroaches. A condition should be imposed on any consent that requires compliance, see <b>condition C.1(f)</b>.</p>
 <p><b>Condition C</b></p> <p>Location</p>  <p><b>Section</b></p>	<p>Applicant's comment <i>The proposed development complies with Condition C, refer to the Architectural Drawings included in Appendix B.</i></p> <p>The proposal is considered to comply with the intent of edge condition C. However, it is noted that the width of Patterson Street is 15.24m and not 18m as suggested in the diagram opposite. This conflicts with the description for edge condition C, i.e. <i>C – 32 degree inclined plane springing from the southern side of Patterson Street</i>. The 18m shown on the diagram results in a springing point for the 32 degree inclined plane within the front yard of the residential properties on the opposite side of Patterson Street.</p> <p>As the introduction to A2.4 provides <i>Building envelopes illustrate the limits of permissible building height, depth and location and are <b>described on the control drawings</b> for New South Head Road and Kiaora Lane/Patterson Street.</i> (emphasis added) the drawings are taken to take precedence over the text.</p> <p>The proposal is considered to be satisfactory in terms of edge condition C.</p> <p>(This edge condition, as it relates to the proposed development, is shown on Nettleton &amp; Tribe drawing no. 3109_DA_031-C, section D-D.)</p>

 <p><b>Condition D (East)</b> Location</p>  <p>Section</p>  <p><b>Condition D (West)</b> Location</p>  <p>Section</p>	<p><b>Applicant's comment</b> <i>The proposed development is considered to be consistent with Condition D, refer to the Architectural Drawings included at Appendix B and the SEPP 1 objection at Appendix AA.</i></p> <p>The building complies with edge condition D apart from the parapet height at the New South Head Road alignment which measures 16.8m rather than 16.5m as indicated on the diagram. The maximum height standard under the WLEP is also 16.5m. The breach of the WLEP is discussed in the assessment report under part 11.3 in relation to a SEPP 1 objection submitted by the applicant. The discussion concludes that compliance with the height standard would be unreasonable and unnecessary. Similarly this breach of edge condition D is considered to be acceptable.</p> <p>It is also noted that the curtain wall façade, which abuts the alignment of New South Head Road as per the edge condition diagram D (East), will be behind projecting horizontal translucent glass louvers. These sun shade devices to the glazed northern elevation are considered to be appropriate in terms of the building's design, modulation and energy efficiency performance.</p> <p>Similarly, the curtain wall façade will be setback from the New South Head Road alignment in accordance with edge condition D (West) but with projecting aluminium sunshade louvers.</p> <p>The proposal is considered to comply with the intent of edge condition D.</p>
	<p><b>Applicant's comment</b> <i>The proposed development is considered to be consistent with Condition E+F, refer to the Architectural Drawings included at Appendix B and the SEPP 1 objection at Appendix AA.</i></p> <p>The same assessment applies to the 16.5m height limit for edge condition E+F as for edge condition D although the proposed height of the parapet is 17.8m which exceeds the control by 1.3m.</p>



Regarding the 32 degree inclined plane, the central atrium style area above the arcade of the New South Head Road building complies. The main envelope of the building exceeds the height plane by a maximum of 6m for an overall length of 38m. This is a substantial departure from edge condition E as per the diagram. In relation to the 32 degree inclined plane, edge condition E allows consideration to be given to a variation in the following terms:

*Variation to the inclined plane may be considered if the principal dining/public area on the south side of the plaza has sunlight access at 12 noon in mid winter.*

The urban design review undertaken on Council's behalf by Hassell recommends that the proposal be amended to incorporate various design revisions. These revisions relevantly include:

*Levels 2 and 3 of Library be set back to comply with the 32 degree angle in order to provide sufficient solar access and amenity to the new public space on Kiaora Lane.*

The applicant was requested by email dated 2/3/12 to respond to the recommendations of the Hassell review. In relation to this recommendation a letter dated 30/3/12 was received from TPG with revised shadow diagrams prepared by **nettletontribe**. The TPG letter raises the following:

*..... it is considered important to recognise that the brief provided by Council to the architects engaged to prepare the specifications for the Library building were focused on ensuring that a future library provides for the existing and projected future needs of the community of Woollahra local government area. This is considered to be the main focus of the Library building – its public purpose. ....*

*It is considered that the design of the proposed development is consistent with the controls C1 to C10 of Clause A2.5.5.3 (relating to The New Public Plaza) as the Kiaora Lane will:*

- *Provide a space which accommodates the section diagram shown in "edge condition diagram E + F" in section A2.4. However, the built form does not strictly comply with the edge condition envelope which provides for a 32 degree inclined plane. This is discussed in more detail below. ....*

*To fully understand the edge condition control, Nettleton Tribe have produced a series of drawings.....*

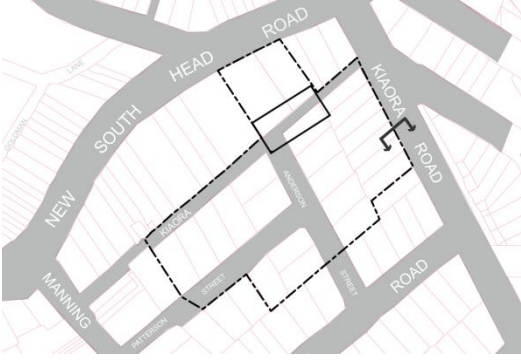
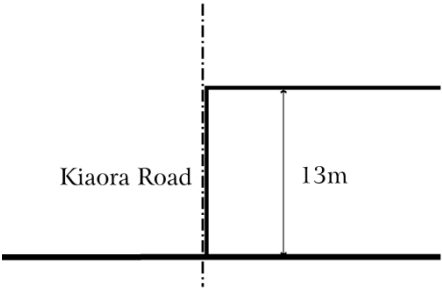

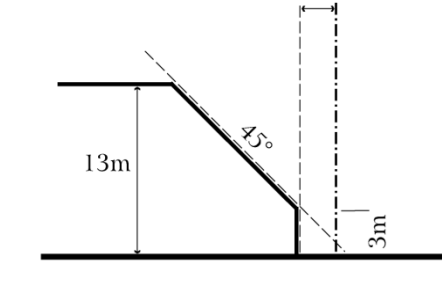
*Drawing No. 3109\_SK581 demonstrates the existing proposal with a 32 degree incline plane aligned to true north. The top floor of the Library Building is impacted by some 4.86 metres as shown in Drawing No. 3109\_SK 580. If strict compliance was required this would result in some 74.9 square metres of library floor space of the Library Building being diminished at level 4.*

*It is evident that a 32 incline aligned with true north and not 90 degrees to the building as shown in the control,*



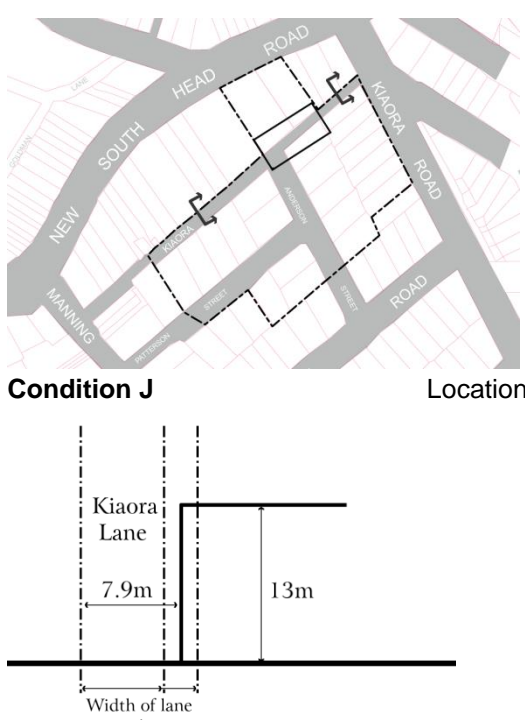
	<p><i>will achieve little in terms of gaining more sunlight to the floor of the plaza. ....</i></p> <p><i>It is noted that the controls do not specify a proportion or how much solar access is to be achieved at midday on 21 June. ....</i></p> <p><i>The analysis in Drawing No. 3109_SK581 demonstrates that the floor of the Plaza achieves solar access at midday on 21 June.</i></p> <p><i>It is considered that while the proposed development does not provide for strict compliance with the 32 degree incline plane that this does not unreasonably impact on the amenity of users of the space as the principal activity will be for pedestrian circulation, while the provision of outdoor seating can still be accommodated where sunlight traverses the Plaza not just at midday but through a lunchtime period as shown at 1pm and 2pm where more solar access is achieved, therefore providing amenity for users during peak periods.</i></p> <p><i>In addition, it is considered that a variation of the 32 degree incline plane can be supported in this instance as no other development seeks to achieve a development outcome which is to bring about a direct public benefit of a library use, and that to require strict compliance will significantly impact this public benefit. ....</i></p> <p><i>Drawing No. 3109_SK579, this would further diminish the available floor space for the library and this would occur over two levels, 87.3 square metres at level 3 and 180.9 square metres at level 4. This is a significant amount of floor space diminished in the library area and if required to comply would most certainly impact on the public benefit to be derived by the proposed Library building. As such, the applicant has chosen not to amend the design in this manner.</i></p> <p><b>(Annexure 1A contains A4 copies of the shadow diagrams submitted with TPG's letter of 30/3/12)</b></p> <p>The WLEP development controls envisage a building with a 3:1 FSR as proposed. The DCP controls provide for various boundary setbacks (e.g. to achieve the public plaza) and for substantial arcade space. Therefore, achieving the site density necessarily requires a building of more than 3 storeys and this is facilitated by the building height control.</p> <p>This edge condition allows a variation to the 32 degree inclined plane to be considered if there is sunlight access to the principle dining/public area on the south side of the plaza at 12 noon in mid winter. The shadow diagrams demonstrate that an area on the southern side of the plaza will have sunlight access. Essentially the proposal is compliant with the variation.</p> <p>The variation does not stipulate the amount of sunlight the area of the plaza should receive nor does it define what is the principle dining/public area.</p>
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	<p>Given the tensions in the planning controls, i.e. achieving density within the edge condition envelope control, it is considered that this becomes a matter of prioritising outcomes. It is apparent that the applicant/owner's priority is achieving a public benefit in terms of a library facility that will fulfill the needs of the community. Although this can not be achieved by complying with the edge condition it can be achieved by satisfying the variation that is built into the edge condition control.</p> <p>On balance it is considered that the proposal is satisfactory in relation to edge condition E + F.</p>
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 <p><b>Condition G</b> Location</p>  <p><b>Section</b></p>	<p><b>Applicant's comment</b> <i>The proposed development is considered to be consistent with Condition G, refer to the Architectural Drawings included at Appendix B and the SEPP 1 objection at Appendix AA.</i></p> <p>The proposal complies with edge condition G apart from the lift shaft overrun which exceeds the 13m height plane. The lift shaft overrun achieves a height of 14.87m. The maximum height development standard under WLEP is also 13m. The breach of the maximum height standard is discussed in part 11.3 of the assessment report in conjunction with a SEPP 1 objection submitted by the applicant to such standard. The assessment of the SEPP 1 objection concluded that compliance with the height standard was unreasonable and unnecessary under the circumstances.</p> <p>The proposal is considered to satisfy the intent of edge condition G.</p>
 <p><b>Condition H</b> Location</p>  <p><b>Section</b></p>	<p><b>Applicant's response</b> <i>The proposed development complies with Condition H, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The building is setback 2.5m from the southern boundary in conformity with the edge condition. The roof level parking (and 1<sup>st</sup> floor commercial office space) is sufficiently set from the boundary so that the perimeter wall accords with the 45 degree inclined plane.</p> <p>The roof level carparking includes shading devices in the form of powdercoated aluminium louvers which project 2.8m above the perimeter wall for a length of approximately 34m or nearly the full length of the building to which edge condition H applies. The shading devices are depicted on the architectural plans as being lightweight and open structures. They are unlikely to contribute in a significant way to the shadowing of the neighbouring residential property. However, the breach of the inclined plane will add to the perceived height and scale of the building as viewed from the neighbouring property. They also provide limited amenity to the adjacent carparking spaces due to their orientation and location at the southern edge of the carpark.</p> <p>In the circumstances it is considered that the shading devices should be redesigned to comply with edge condition H, see <b>condition C.1e</b>).</p>
	<p><b>Applicant's comment</b> <i>The proposed development complies with Condition I, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The proposal complies with edge condition I.</p>



<div data-bbox="164 174 683 521"> </div> <div data-bbox="164 521 687 555"> <p><b>Condition I</b> <span style="float: right;">Location</span></p> </div> <div data-bbox="209 562 600 880"> </div> <div data-bbox="164 891 256 925"> <p>Section</p> </div>	<p>The proposal is for the western setback, where edge condition I applies, to be a pedestrian link from Kiaora Lane to Patterson Street. In relation to this pedestrian link the independent urban design review undertaken on Council's behalf by Hassell includes the following recommendations:</p> <p><i>_ Additional safety measures be provided along the pedestrian link between Kiaora Lane and Patterson Street, such as CCTV and prominent lighting.</i></p> <p><i>_ The substation area on the pedestrian link between Kiaora Lane and Patterson Street be enclosed and further integrated into the design of the building. The redesign should seek to increase the width of the pedestrian link as much as possible.</i></p> <p>The applicant's response to these recommendations, as set out in a letter dated 28/3/12 from <b>nettletontribe</b>, was as follows:</p> <p><i>Integration of the substation into the building has been avoided to date due to the complexity and safety issues related to flooding, overland flow paths and the high level of acid sulphate soils. Any integration will result in the substation floor levels being below the level of existing over land flow paths or require significant excavation in order to construct below ground chamber substations in acid sulphate again with major flooding risk and relevant power outages.</i></p> <p><i>The addition of the above security measures will ensure safety in and around the substations. Further enclosure may or may not improve the visual appearance but will only further narrow the width of the proposed pedestrian link which is in excess of 3 metres clear for the pedestrian pathway.</i></p> <p><i>Interestingly, Council's DCP Control (Double Bay Centre DCP 2002 Version 10 June 2011) for the building setback for this pedestrian access way is only 2.5metres from the Western Boundary, significantly less than that proposed and even less than the proposed minimum pavement width.</i></p> <p>The minimum setback from the western boundary is 6.2m, increasing to 10.4m (approx.). The substations are toward the Patterson Street end of the link and the minimum distance from the closest substation to the western boundary is 5.6m, which is more than double the setback required by edge condition I.</p> <p>The applicant has agreed to the Hassell recommendation for additional safety measures in the form of CCTV while lighting to the relevant Australian Standard is recommended as a condition of any consent.</p> <p>The proposal is considered to be satisfactory in terms of edge condition I.</p>
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 <p><b>Condition J</b> Location</p> <p><b>Section</b></p>	<p><b>Applicant's comment</b> <i>The proposed development complies with Condition J, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The proposal complies with the 7.9m setback from the northern boundary of Kiaora Lane. It also complies with the 13m height at the Kiaora Lane frontage, apart from lift/stair enclosure. The lift/stair enclosure attains a height of approximately 14.25m. The enclosure has a length of 11.4m to Kiaora Lane compared to the overall length of the building of 172m which represents about 6%.</p> <p>The 13m edge condition height is the same as the statutory height under the WLEP. This non-compliance with the height standard was drawn to the applicant's attention by email dated 21/2/12. The applicant subsequently revised the SEPP 1 objection for the Kiaora Lane building to also include this lift/stair enclosure. The SEPP 1 objection has been discussed earlier in this report and the height of the lift/stair enclosure, despite its breach of edge condition J, is considered to be acceptable for the reasons referred to in the SEPP 1 objection.</p>
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#### A2.5 Development controls

- *This section contains development controls that apply specifically to the Kiaora Lands site. These are to be read in conjunction with the relevant development controls in sections 6.1 - 6.7 of this DCP.*

Sections 6.1 – 6.7 of the DBDCP contains development controls that apply to development generally in the Double Bay Centre. The development controls relate to:

- 6.1 General format
- 6.2 Use
- 6.3 Urban character
  - 6.3.1 Building envelopes
  - 6.3.2 Height
  - 6.3.3 Building articulation
  - 6.3.4 Setbacks
  - 6.3.5 Corner buildings
  - 6.3.6 Architectural resolution
  - 6.3.7 Roof design
  - 6.3.8 Heritage + contributory character
- 6.4 Relationship to public domain
  - 6.4.1 Awnings
  - 6.4.2 Colonnades
  - 6.4.3 Arcades, walkways and courtyards
  - 6.4.4 Outdoor eating
  - 6.4.5 Ground floor active lane frontages
  - 6.4.6 Signage and advertising
- 6.5 Environmental amenity
  - 6.5.1 Visual amenity
  - 6.5.2 Acoustic privacy
  - 6.5.3 Landscaped open space
  - 6.5.4 Private open space
- 6.6 Sustainable design principles
  - 6.6.1 Energy efficiency and conservation
  - 6.6.2 Natural daylight and natural ventilation
  - 6.6.3 Solar access
  - 6.6.4 Glazing
  - 6.6.5 Water conservation

- 6.6.6 Stormwater and pollution minimisation
- 6.6.7 Waste minimisation
- 6.6.8 Environmentally sustainable building materials
- 6.6.9 Geotechnology and hydrogeology
- 6.7 Access
  - 6.7.1 Pedestrian access and mobility
  - 6.7.2 On-site parking
  - 6.7.3 Vehicular access
  - 6.7.4 First floor parking
  - 6.7.5 Site facilities

The provisions contained in sections 6.1 – 6.7 of the DBCDCP have been used to inform the following assessment where applicable. They are also discussed under part 13.1.1 of this report.

Control	Assessment										
<b>A2.5.1 Use</b> <i>The image and vitality of the Double Bay Centre will benefit from the mix of uses that is permissible on the Kiaora Lands site. These uses include:</i> <ul style="list-style-type: none"> <li>▪ Shopping facilities such as a major supermarket, specialty food outlets and additional retail floor space, all of which supplement the existing distinctive mix of small scale shops, boutiques, restaurants, cafes and commercial premises that characterise the centre,</li> <li>▪ Community facilities that will give a civic presence to the centre,</li> <li>▪ Commercial premises,</li> <li>▪ Parking.</li> </ul>	<p>The proposed uses within the development are consistent with A2.5.1. Approval of the DA would give approval for the specific uses that have been indicated, i.e. library, supermarket, grocer, bottle shop and public carpark. Approval would not give approval for the specific use of the commercial and retail spaces which are not specified in the DA. The use of these spaces may require separate DAs if exempt and complying provisions do not apply. Any DA for the specific use of those retail and commercial spaces should be consistent with A2.5.1.</p>										
<b>A2.5.2 Height</b> <i>The height of the building envelope for the Kiaora Lands site is indicated on the control drawings in section A2.4 Built form envelopes.</i>  <i>The following table provides the approximate floor to floor heights for different uses:</i> <table> <tr> <td>Retail (small footprint)</td><td>4.0m</td></tr> <tr> <td>Supermarket</td><td>6.0m</td></tr> <tr> <td>Library</td><td>5.5m</td></tr> <tr> <td>Commercial</td><td>3.5m</td></tr> <tr> <td>Carparking</td><td>3.0m</td></tr> </table>	Retail (small footprint)	4.0m	Supermarket	6.0m	Library	5.5m	Commercial	3.5m	Carparking	3.0m	<p>Building heights have been discussed under A2.4 in relation to building envelopes and edge conditions. Subject to conditions the proposed building heights comply with, or are considered to be consistent with the intent of, A2.4.</p> <p>The floor to floor heights proposed are considered to be acceptable. It is noted that the heights shown in the table are approximate. Lower heights have been adopted in some areas. It needs to be acknowledged that strict conformity with the heights would create a tension in optimising the density of development permissible on the site and satisfying overall building height controls and standards.</p> <p>The proposed development is considered to be satisfactory in terms of A2.5.2.</p>
Retail (small footprint)	4.0m										
Supermarket	6.0m										
Library	5.5m										
Commercial	3.5m										
Carparking	3.0m										
<b>A2.5.3 Built form south of Kiaora lane</b>											
<b>Principles</b> <ul style="list-style-type: none"> <li>▪ P1 The functional and operational requirements of large retail outlets should not compromise the qualities of the adjacent public domain.</li> <li>▪ P2 The built form should not compromise the amenity of adjoining properties.</li> <li>▪ P3 The built form should be compatible with producing attractive public domain.</li> </ul>											
Control	Assessment										
<b>C1</b> Comply with edge conditions in section A2.4 Built form envelopes, Figure 5.	<p>Applicant's comment Previously discussed in Section A2.4 Built form Envelopes of this compliance table.</p> <p>Edge conditions have been discussed under A2.4 Subject to conditions the proposed building edge conditions comply with, or are considered to be consistent with the intent of, A2.4.</p>										

<p><i>C2 The building setback included in edge condition A is to accommodate deep soil landscaping to mitigate the impact of the built form. The minimum width for deep soil landscaping is 4.5m.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The setback area included in edge condition A (i.e. to the rear of the adjoining Court Road properties) is deep landscaping with a minimum width of 4.5m.</p> <p>The landscape plan provides for tree screen planting (mix of eucalypts, blueberry, ash, lilly pilly, smaller shrubs and groundcover), retention of existing trees with a feature Jacaranda at the western end. This is considered to be satisfactory in terms of C2.</p>
<p><i>C3 The supermarket should not present uninterrupted blank walls onto streets and public spaces.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The supermarket does not present uninterrupted blank walls onto streets and public spaces. A condition is recommended to provide a window to the supermarket at the northern end of Anderson Street which will add fenestration to this section of the wall.</p>
<p><i>C4 The building frontage facing Kiaora Lane, Patterson Street and Kiaora Road is to be articulated so as to break up the length of the built form and reflect the vertical proportions of development in the Double Bay Centre.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The building is horizontally proportioned due its length to height ratio. Whilst the design includes strong horizontal lines these are broken by vertical segmentation on the street frontages and by the use of vertical detailing.</p> <p>The building frontages facing Kiaora Lane and Kiaora Road are articulated so as to break up the length of the built form and reflect the vertical proportions of development in Double Bay.</p> <p>In relation to Patterson Street the urban design review by Hassell on behalf of Council includes the following recommendation:</p> <p><i>Façade detail of the western elevation to the Supermarket Building be revised to minimise visual bulk and provide a more sympathetic response to the suburban character of Patterson Street and to preserve the amenity of 4 Patterson Street. In addition, greater landscaping should be provided along this streetscape (i.e. adjacent to the car park egress to soften the appearance of this façade.</i></p> <p>The applicant was requested by email dated 2/3/12 to respond to the recommendations of the Hassell review. <b>Nettleton</b>'s letter of 28/3/12 in response to this recommendation is discussed in relation to A2.3.2.2 and is considered to satisfactorily address this issue.</p>

<p><i>C5 The main frontage of the supermarket is to be highly transparent and activated.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The main frontage of the supermarket is to Kiaora Lane. It is highly transparent and activated, consisting of:</p> <ul style="list-style-type: none"> <li>• transparent glazing/glass with graphic image in front of the main stairs/lift and travelators</li> <li>• curtain wall glazing/glazing with graphic inner layer framed in sandstone/painted precast render</li> <li>• Aluminium graphic artwork screen adjacent to the public plaza area</li> </ul> <p>The proposal is considered to satisfy C5.</p>
<p><i>C6 Access to specialty retail outlets is to be directly from the public domain.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Speciality retail outlets are accessed directly from the Kiaora Lane 'shared zone'/public plaza as required by C6.</p>
<p><i>C7 Awnings are to be provided along the Kiaora Road and Kiaora Lane retail frontages.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The proposal includes awnings to the Kiaora Road and Kiaora Lane retail frontages (these include canvas drop awnings proposed to the speciality retail outlets).</p>
<p><i>C8 Provide wet weather protection at the entrance of the supermarket.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The entrance to the supermarket is recessed beneath the 1<sup>st</sup> floor. The entrances to the lift/stairs/travelators providing access to the supermarket are provided with weather protection.</p>
<p><i>C9 The retail and office development at Kiaora Road should provide articulated walls and windows to street.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with the "built form south of Kiaora Lane" requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The design of the building includes articulated walls and windows to the street of the Kiaora Road retail and office accommodation.</p>

<p><i>C10 All mechanical plant is to be designed on the basis that if that equipment could operate at any time of the day or night, then its noise emission component, when measured at the nearest, or at any other residential property façade, must not exceed the nocturnal background level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location must not exceed the nocturnal background level by more than 5dB(A).</i></p> <p><i>Note: The background noise level is to be measured on a windless Tuesday night which is normally the quietest night of the week. The results of this measurement must not be degraded by the noise of passing traffic, or by the noise from vehicles entering, or exiting the Anderson Street entry and exit. This may require the background noise level to be measured when the Anderson Street entry and exit is closed.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with these noise controls, refer to the Acoustic Report included at Appendix L.</i></p> <p>Following a review of the acoustic report by Council's Environmental Health Officer (EHO) the applicant was requested by letter dated 2/2/12 to provide additional information, including:</p> <p>12. <i>The mechanical plant assessment within the acoustic report must assess the cumulative noise impact from all plant in operation from the Supermarket/Dan Murphys Design Kit Specification. As the noise control measures are known predicted calculations of noise emissions on nearby residential properties from the operation of all mechanical plant should be presented to determine if the noise control measures will achieve the noise criterion.</i></p> <p>17. <i>The acoustic report shall include a statement certifying that the built form of the completed development will comply with the following controls of A2.5.3 – 'Built form south of Kiaora Lane' of the Double Bay Centre Development Control Plan 2002;</i></p> <p>An addendum to the acoustic report was submitted (Addendum to Reverb Acoustics Report 110160-R1). In relation to item 12 Council's EHO commented <i>Predicted calculations of the cumulative noise impact of all mechanical plant at the site will be compliant with the nominated noise criterion subject to acoustic controls being incorporated into the design as recommended in the acoustic report. I acknowledge the comments made by Reverb Acoustics and I am in agreement: no further information is required.</i></p> <p>The recommendation of this report requires adherence to the recommendations of the Reverb Acoustic Report, see <b>condition A.3.</b></p>
<p><i>C11 The use of the premises must not give rise to noise which exceeds the relevant nocturnal background sound levels by more than 5dB(A) when measured at the façade of the nearest, or any other residential premises.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with these noise controls, refer to the Acoustic Report included at Appendix L.</i></p> <p>Compliance with this control is included in the recommendation of this report, see <b>condition I.18.</b></p>

<p><i>C12 External pipes, vents, fans or other items of plant must be individually specified to produce components of noise emission which are less than the relevant background sound level at the façade of the nearest of any other residential property. All such plant is to be located as far away as possible from residential properties. In the event that pipes, high velocity air discharge outlets or other pipe work are installed on the face of the building or extend through the rooftop, those outlets must be equipped with acoustically effective discharge silencers and have their directional discharge pointing in a north-westerly direction.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with these noise controls, refer to the Acoustic Report included at Appendix L.</i></p> <p>Compliance with this control is included in the recommendation of this report, see <b>condition I.17</b>.</p>
<p><i>C13 The façade to Patterson Street is to be highly articulated with the use of a variety of materials and finishes to mitigate its bulk and visual impact.</i></p>	<p>Applicant's comment <i>The Patterson Street façade of the proposed development is considered to be highly articulated, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Refer to assessment in relation to C4.</p> <p>The development has facades to the northern side and at the eastern end of Patterson Street. The façade to the northern side comprises loading dock (timber panel lift door) and carpark entry (roller door) openings with rendered/louvered surrounds at ground level; curved wall with perforated aluminium screen with graphic (oak tree) on the upper level; translucent polycarbonate inserts.</p> <p>The façade at the eastern end of Patterson Street comprises carpark exit (roller door) opening, 2 tone precast render, composite panelling to an angled section at the top of the wall a large window at 1<sup>st</sup> floor and a steel sunshade structure at roof level.</p> <p>There have been improvements made by the applicant to the façade treatments in response to issues raised in the urban design review of the development undertaken on Council's behalf by Hassell.</p> <p>The facades are considered to be satisfactory in terms of C13.</p>
<p><i>C14 Screen landscaping sufficient to mitigate the bulk of the building is to be provided in the perimeter landscape areas.</i></p>	<p>Applicant's comment <i>Perimeter landscaping has been considered for the proposed development, refer to the Landscape Concept Plan included at Appendix C.</i></p> <p>The landscape plans show screen planting to the southern (rear of the Court Road properties and 8 Kiaora Road) and western (pedestrian link connecting Kiaora Lane and Patterson Street and to the east of 4 Patterson Street) perimeters of the building. This is located at ground level and, in the case of the Court Road properties and 8 Kiaora Road, the roof over the ground floor carpark areas.</p> <p>The screen landscaping is considered to be sufficient to mitigate the bulk of the building for the purpose of satisfying C14.</p>

<i>C15 The landscaping reservation between the Court Road property boundaries and the proposed supermarket is to be a minimum of 7.0m wide.</i>	<p>Applicant's comment <i>Perimeter landscaping has been considered for the proposed development, refer to the Landscape Concept Plan included at Appendix C.</i></p> <p>The landscaping reservation between the Court Road property boundaries and the supermarket is 7m wide, in conformity with C15.</p>
<i>C16 The landscaping reservation is to be free of carparking.</i>	<p>Applicant's comment <i>The landscaping reservation is free of car parking refer to the Landscape Concept plan included at Appendix C.</i></p> <p>The landscaping reservation is free of carparking in conformity with C16.</p>
<i>C17 The ground floor carparking where it faces residential properties to the south is to be completely enclosed.</i>	<p>Applicant's comment <i>The ground floor car parking where it faces residential properties to the south is completely enclosed refer to the Architectural Drawings included in Appendix B.</i></p> <p>The ground floor carparking is completely enclosed where it faces residential properties and therefore complies with C17.</p>
<i>C18 The ground floor level carpark roof is to have a green roof design.</i>	<p>Applicant's comment <i>A landscape bed (green roof design) is proposed over the ground floor car park adjacent to the rear boundary.</i></p> <p>The roof to the ground floor carpark is at the southern end of the development. The landscape plans submitted with the DA show the roof being a landscaped area with dense tree and shrub plantings. This treatment is considered to be satisfactory in terms of C18.</p>
<b>A2.5.4 Built form north of Kiaora Lane</b>	
<p><b>Principles</b></p> <p><i>P1 The building is to be of exemplary design commensurate with its civic function.</i></p> <p><i>P2 The building should not compromise the adjoining heritage item.</i></p> <p><i>P3 The pedestrian connection between New South Head Road and Kiaora Lane is to be strengthened.</i></p>	
<b>Control</b>	<b>Assessment</b>
<i>C1 Comply with edge conditions in section A2.4 Built form envelopes, Figure 4.</i>	<p>Applicant's comment <i>Previously discussed in Section A2.4 Built form Envelopes of this compliance table.</i></p> <p>Compliance with edge conditions is discussed earlier under the assessment of A2.4. There are some departures from the edge condition diagrams in A2.4 but the proposal is generally considered to be satisfactory.</p>



<p><i>C2 At the New South Head Road frontage, the setback between the adjacent heritage item to the west and the northern end of the arcade is to be a minimum of 1.35m from the street boundary to reflect that point on the adjoining heritage item where the gable parapet wall springs up from the façade parapet.</i></p>	<p>Applicant's comment <i>The New South Head Road frontage of the proposed development is considered to be consistent with this requirement, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The front façade of the building, between the heritage item to the west (the Golden Sheaf Hotel) and the northern end of the arcade, is setback a minimum of 1.35m. Projecting, horizontal, aluminium sun louvers are attached to the front of the façade at the mid-levels. Council's Heritage Officer has raised no objection to the impact of the sun louvers on the heritage significance of the Golden Sheaf Hotel.</p> <p>The proposal is considered to be satisfactory in terms of C2.</p>
<p><i>C3 The building is to accommodate a clearly visible arcade which connects New South Head Road to development south of Kiaora Lane. Refer to section A2.5.5.2 The new arcade.</i></p>	<p>Applicant's comment <i>The proposed development has a clearly visible arcade which will connect New South Head Road to the "supermarket building" development south of Kiaora Lane, refer to the Architectural Drawings included in Appendix B.</i></p> <p>The New South Head Road building includes a pedestrian arcade at ground level which provides access between New South Head Road and Kiaora Lane. The arcade is within an atrium type space that is recessed from the building's façade at street level and in height. It employs a distinctive design and use of materials which clearly distinguishes it visually from the remainder of the building.</p>
<p><i>C4 A public plaza is to be provided to the south of the building. Refer to section A2.5.5.3 The new public plaza.</i></p>	<p>Applicant's comment <i>Refer to Section A2.5.5.3 The new public plaza of this compliance table.</i></p> <p>A public plaza is provided to the south of the building. It is located between the arcade and the pedestrian entry to the public carpark /supermarket.</p> <p>Details relating to the public plaza are assessed below under A2.5.5.3.</p>
<p><i>C5 Active retail or civic frontages are to be provided to the New South Head Road frontage, the plaza and the arcade.</i></p>	<p>Applicant's comment <i>Active retail frontages have been provided for the New South Head Road frontage, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The retail areas at the ground floor open onto New South Head Road, the plaza (including full width bi-fold doors to the eastern part of the frontage) and the arcade. The building design uses glazing on these frontages at ground floor and also on the upper levels creating a high degree of transparency between the activities in the public domain and the retail and library areas.</p> <p>The proposal is considered to be satisfactory in terms of C5.</p>

<p><i>C6 Access to specialty retail outlets is to be directly from the public domain.</i></p>	<p>Applicant's comment <i>Access to speciality retail outlets have been provided from the public domain, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Retail outlets are on the ground floor and western side of the 1<sup>st</sup> floor. The ground floor outlets will be directly accessible from both street frontages and/or the arcade. The 1<sup>st</sup> floor outlets will be accessible from the ground floor by publicly accessible escalators located in the arcade.</p> <p>The proposal is considered to be satisfactory with regard to C6.</p>
<p><b>A2.5.5 The new public domain</b></p>	
<p><b>Principles for all public domain on Kiaora Lands</b></p> <p><i>P1 Ensure the public domain is of a high standard and exemplary urban design.</i></p> <p><i>P2 Provide a high level of pedestrian amenity and create improved public spaces with a community focus.</i></p> <p><i>P3 Consider the needs of people with access difficulties.</i></p> <p><i>P4 Reduce conflicts between pedestrians and vehicles.</i></p> <p><i>P5 Enrich and enliven the main spaces by providing high quality design elements and/or works of contemporary art.</i></p>	
Control	Assessment
<p><i>C1 The public domain design is to be consistent with the Double Bay Centre Public Domain Improvement Plan (Improvement Plan).</i></p>	<p>Applicant's comment <i>The public domain design is considered to be consistent with the Double Bay Centre Public Domain Improvement Plan, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Part 2 – Public domain strategy, of the Improvement Plan includes design principles at 2.2 which cover street tree planting, street furniture and paving and pedestrian amenity.</p> <p>Part 6 – Streetscape design manual, deals with street furniture (6.1), paving (6.2), urban geometry (6.3) and street trees (6.4).</p> <p>The proposed public domain improvements are shown principally on the Landscape Plans prepared by Context that were submitted with the DA. Reference to the Improvement Plan is included in relation to the assessment of the following controls, if necessary.</p>
<p><i>C2 The pavement system used in the main spaces is to be of predominantly segmental stone elements (laid on a suitable concrete base).</i></p>	<p>Applicant's comment <i>The proposed development is not up to this stage of the development however it has been noted.</i></p> <p>The landscape plans show the public plaza, the Kiaora Lane 'shared zone' and the pedestrian link at the western end of the development having paved surfaces consisting of a blend of granite pavers 300mm x 300mm and 600mm x 300mm. This would be at odds with 6.2 of the Improvement Plan. Details regarding the pavement base have not been provided.</p>

	<p>A condition is recommended that the pavement system used in public domain areas be in accordance with the Improvement Plan, part 6.2. Regarding the shared zone carriageway in Kiaora Lane, the selection and pattern of paving is to be subject to approval of Council's Technical Services Division, see <b>condition C.1g</b>).</p>
<p><i>C3 The pavement system is to comply with AS/NZS 4586 Slip resistance classification of pedestrian surface materials for safety and slip resistance.</i></p>	<p>Applicant's comment <i>The proposed development is not up to this stage of the development however it has been noted.</i></p> <p>This can be imposed as a condition of any consent.</p>
<p><i>C4 Ensure that shops are level with the adjacent external public spaces.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with new public domain requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The architectural drawings show this to be the case. Regarding the Thomas Dux grocer, the external public space varies in level between Kiaora Road and Kiaora Lane. Access is provided at grade from the public plaza area in Kiaora Lane. This is considered to be acceptable. The 1<sup>st</sup> floor retail areas are level with the adjacent public spaces although they are internal rather than external spaces.</p> <p>The proposal is considered to be consistent with C4.</p>

<p><i>C5 Reinstate the tree lined nature of the streets and lanes.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with new public domain requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The landscape plans submitted with the DA indicate the proposed improvements to the streets, including the removal/retention of existing trees and new tree plantings. Council's Tree Officer has commented on the landscape plans (see <b>annexure 3</b>) and recommends that in terms of tree preservation and landscaping the proposal is satisfactory subject to conditions. The conditions relate to the species of new trees plantings in Kiaora Lane/public plaza and Kiaora Road, the use of road pits rather than raised planter boxes for tree planting in Kiaora Lane, removal/retention of trees listed for retention in the DBCDCP, protection of root zones of trees to be retained and payment of tree security deposits. The Tree Officer's recommendations are supported, see <b>conditions C.9, 11, D.8 &amp; E.11</b>.</p> <p>It is noted that most of the street trees to be removed are on sections of Anderson and Patterson Streets which are to be closed and which form part of the development site. Those trees are within the footprint of the proposed building or in the location of proposed driveway cross-overs for access to the car park or loading docks.</p> <p>The proposal is considered to be satisfactory in terms of C5.</p>
<p><i>C6 Awnings must be designed to accommodate street trees.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with new public domain requirements, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The awnings have been designed to accommodate street trees. On the Kiaora Road elevation the awning has a significant setback from the edge of the kerb sufficient to accommodate existing trees to be retained and proposed trees. The awnings to the retail outlets are in the form of vertical, drop awnings which minimises the likelihood of interference with proposed tree plantings on the southern side of Kiaora Lane.</p> <p>[The doors to the retail outlets on the ground floor of the Kiaora Lane building are shown to open outwards and in some instances encroach onto the proposed 'shared zone'. These doors should be subject to a condition which requires that they do not encroach onto Kiaora Lane whilst open or being opened, see <b>condition C.1 c).</b>]</p>

<p><i>C7 Minimise the presence of vehicles in Kiaora Lane and the plaza.</i></p>	<p>Applicant's response <i>The presence of vehicles in Kiaora Lane and the plaza are discouraged, refer to the Traffic Report included at Appendix S.</i></p> <p>The applicant's traffic report refers to the RTA's (now Roads and Maritime Services (RMS)) requirements for a 'shared zone'. It states that the traffic volume for a 'shared zone' is to be less than 300 vpd. Traffic modeling predicts a flow of about 14 vph or 140 vpd.</p> <p>This suggests that the presence of vehicles in Kiaora Lane will be minimised and the proposal is considered to be satisfactory in terms of C7.</p>
<p><i>C8 Use bollards to allow freedom of pedestrian movement while preventing vehicular access to specific areas. Bollards are to be used sparingly and are not to be used simply to define edges to vehicular paths.</i></p>	<p>Applicant's comment <i>Bollards can be accommodated to allow freedom of pedestrian movement and prevent vehicular access to pedestrian areas.</i></p> <p>The landscape plans show bollards in the vicinity of the access to the Dan Murphy's loading dock at the western end of the development. The use of bollards in this location will prevent vehicles accessing the pedestrian link between Kiaora Lane and Patterson Street and the paved area adjacent to the retail outlets which is depicted as an outdoor cafe area.</p> <p>The use of bollards is considered to accord with C8.</p>
<p><i>C9 Minimise use of signage.</i></p>	<p>Applicant's comments <i>Signage for the proposed Woolworths supermarket, Thomas Dux and Dan Murphy's are shown on the elevations for the proposed new retail, commercial and car parking building fronting Kiaora Lane. Conceptual signage for components of the proposed have been designed and integrated into the overall design, such as directional or "way-finding" signage to entry points of the car parking in the proposed development. The conceptual signage and business identification signage is illustrated on the Architectural Plans included at Appendix B.</i></p> <p>Council's Signs Officer has commented on the proposal, see annexure 10. Generally the proposed signage is building or business identification signage and is therefore not subject to the controls under part 3 of SEPP 64, as discussed earlier in the assessment report, refer to 10.1.</p> <p>With the exception of a projecting wall sign on the Kiaora Lane elevation of the Kiaora Lane building the proposed signage is considered to be satisfactory.</p>

<p><i>C10 The Davis Cup commemorative plaque is to be reinstated and is to be explained with interpretive signage. The position of the plaque is to be determined with regard to the location of the original tennis courts.</i></p>	<p>Applicant's comment <i>The Davis Cup commemorative plaque can be accommodated, refer to Heritage Impact Assessment included at Appendix I.</i></p> <p>The plaque is shown to be relocated to the eastern side of the carpark entry/egress on Anderson Street, inside the boundary of the development site. Council's Heritage Officer recommended a condition be imposed regarding the exact location of the plaque, see <b>condition F27</b>.</p> <p>Montages and illustrated elevations submitted with the DA also show indicative images depicting the Davis Cup's association with the site at the western end of the Kiaora Lane façade.</p> <p>Subject to the condition recommended by Council's Heritage Officer the reinstatement of the Davis Cup plaque is considered satisfactory.</p>
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#### **A2.5.5.1 Kiaora Lane**

##### **Principles**

- P1 Ensure that Kiaora Lane has good connections to existing arcades.*
- P2 Enhance the pedestrian experience and amenity of the lane.*
- P3 Reinforce the spatial definition of the lane.*
- P4 Encourage a mix of uses onto the lane including community facilities and food retailing.*
- P5 Enhance public safety and security of the lane.*
- P6 Encourage an active shared zone.*
- P7 Provide a high quality urban space.*

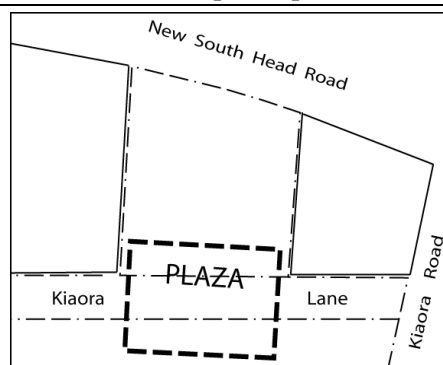
Control	Assessment
<p><i>C1 Frontages to Kiaora Lane are to be active retail or civic functions.</i></p>	<p>Applicant's comment <i>The proposed development has active street frontages to Kiaora Lane for retail or civic functions, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The development has a frontage of 45m to the northern side of Kiaora Lane. The building is recessed from the alignment of the lane to facilitate the proposed public plaza area and has an active retail frontage (including the central arcade) of 34m at the ground floor. The balance of the frontage consists of services, i.e. fire stair exits, switch room and gas meters.</p> <p>The building has an extensive frontage to the southern side of Kiaora Lane of 180m. The majority of the frontage consists of individual retail outlets and the Thomas Dux grocer. They are interspersed with pedestrian accesses to the public carpark and supermarket including travelators, and lift/stair. There is a setback at the western end of the development with the setback area forming a pedestrian link between Kiaora Lane and Patterson Street. Adjoining the pedestrian link the development accommodates the Dan Murphy's loading dock entrance.</p> <p>The Kiaora Lane frontages are considered to be satisfactory in terms of C1.</p>
<p><i>C2 Kiaora Lane is to be a shared zone as defined by the Roads and Traffic Authority.</i></p>	<p>Applicant's comment <i>Refer to Traffic Report included at Appendix S.</i></p> <p>Shared zones require approval of Roads and Maritime Services (RMS, formerly RTA). The proposal, including the shared zone, was considered by the Sydney Regional Development Advisory Committee (SRDAC). The SRDAC advised that approval was required from its Roads Safety Section, see <b>condition A.5</b>.</p> <p>The requirements for a shared zone include a speed limit of 10km/h and drivers are required to give way to pedestrians at all times. Other requirements relate to the road environment and signage.</p> <p>The proposal is satisfactory in terms of C2.</p>

<p><i>C3 Provide a high quality unified pavement treatment along the full length of Kiaora Lane from Manning Road to Kiaora Road.</i></p>	<p>Applicant's comment <i>The development is not up to this stage of the development however it has been noted.</i></p> <p>The development provides for a unified pavement treatment along Kiaora Lane for the length of the development. This means that the section of Kiaora Lane between Manning Road and the western end of the development is not proposed to be re-surfaced. However, it is recommended that</p> <ul style="list-style-type: none"> <li>• Details of the treatment of the shared zone carriageway be subject to approval of Council's Technical Services Division, see <b>condition C.1 g).</b></li> <li>• the kerb, gutter and footpath on the north side of Kiaora Lane to Manning Road, see <b>condition C.4.</b></li> </ul> <p>Also refer to earlier comments regarding A2.5.5, C2 regarding pavement treatment.</p> <p>The proposal is generally considered to be consistent with C3.</p>
<p><i>C4 The selection of materials for the shared zone in Kiaora Lane is to identify it as a space where pedestrians have priority.</i></p>	<p>Applicant's comment <i>Can be conditioned by Council at the issue of the construction certificate.</i></p> <p>This is provided for in the Traffic Report which will form part of any consent, see <b>condition A.3.</b></p>
<p><b>A2.5.5.2 The new arcade</b></p>	
<p><b>Principles</b></p>	
<p><i>P1 Provide a major public pedestrian link between New South Head Road and Kiaora Lane.</i></p>	
<p><b>Control</b></p>	<p><b>Assessment</b></p>
<p><i>C1 The arcade must be naturally lit from above and naturally ventilated.</i></p>	<p>Applicant's comment <i>The new arcade is naturally lit from above and is naturally ventilated, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The section of the building which accommodated the arcade comprises a roof that incorporates glazed panels while the front and rear elevations are glass curtain walls. The openings onto New South Head Road and Kiaora Lane will provide natural ventilation.</p> <p>The proposal is considered to satisfy C1.</p>
<p><i>C2 The arcade is to be a minimum width of 5m at the ground and upper levels.</i></p>	<p>Applicant's comment <i>The new arcade has a minimum width of 5 metres, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The majority of the arcade at ground level has a width of 8m with a minimum width of 7m. At the upper levels the width is 7m.</p> <p>The proposal complies with C2.</p>



<p><i>C3 The arcade is to be designed for 24 hour public access.</i></p>	<p>Applicant's comment <i>The new arcade has been designed to allow 24 hour public access.</i></p> <p>The proposal has been designed to comply with C3. It needs to be acknowledged that, for security reasons, i.e. late night access, some restrictions on access may be necessary.</p>
<p><i>C4 The entrance to the arcade at New South Head Road is to be clearly identified through architectural design.</i></p>	<p>Applicant's comment <i>The entrance to the new arcade at New South Head Road has been clearly identified through architectural design, refer to the Architectural Drawings at Appendix B.</i></p> <p>The central section of the building which accommodates the arcade is clearly defined by being recessed on both elevations, a lower roof and a different awning design at the entrances.</p> <p>The proposal is satisfactory in terms of C4.</p>
<p><i>C5 The shop frontages to the arcade are to be designed to create a visually unified whole.</i></p>	<p>Applicant's comment <i>The shop frontages to the new arcade are design to create a visually unified whole, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The shop frontages are designed in accordance with C5.</p>
<p><i>C6 The floor treatment to the arcade should read as a continuation of the adjacent public spaces.</i></p>	<p>Applicant's comment <i>The proposed development is not up to this stage of the development however it has been noted.</i></p> <p>The floor level of the arcade will match the level of New South Head Road and the proposed level of the public plaza at its Kiaora Lane end, thereby achieving a continuity of levels. The detail of the floor treatment, i.e. materials, colour, etc., can be required as a condition of any consent, see <b>condition D.23</b>.</p>

#### A2.5.5.3 The new public plaza



**Note:** The shape and location of the plaza in the diagram above is indicative only.

#### Principles

- P1 Ensure that the plaza has a distinctive character that is commensurate with its importance as a key civic space in the Double Bay Centre and the civic role of the adjoining building which fronts New South Head Road.*
- P2 Active retail and civic uses are to face the plaza.*
- P3 Ensure the plaza is animated by sunlight.*

Control	Assessment
<p><i>C1 Provide a space which accommodates the section diagram (see edge condition diagram E + F in section A2.4 Built form envelopes).</i></p>	<p>Applicant's comment <i>Previously discussed in Section jA2.5 Built form Envelopes of this compliance table.</i></p> <p>A discussed earlier (see A2.5, edge condition E + F Assessment) the applicant was asked to reply to the issue raised in the urban design review undertaken by Hassell on behalf of Council.</p> <p>Edge condition E + F includes a 32 degree inclined plane which the New South Head Road building partly breaches. However, a variation to the inclined plane may be considered if the principal dining/public area on the south side of the plaza has sunlight access at 12 noon in mid winter.</p> <p>The shadow diagrams submitted with the DA show that an area on the south side of the plaza will receive sunlight at 12 noon in mid winter.</p> <p>The issues relating to C1 have been discussed in detail earlier including the applicant's response to the review undertaken by Hassell.</p> <p>The proposal is considered to be satisfactory with regard to C1.</p>
<p><i>C2 Ensure that the floor of the plaza receives solar access at midday on June 21.</i></p>	<p>Applicant's comment <i>The floor of the plaza receives solar access at midday on June 21, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The shadow diagrams submitted with the DA show that part of the plaza will receive solar access at midday on June 21. It would not be possible for all of the plaza to receive solar access given its orientation directly to the south of the New South Head Road building.</p> <p>The proposal is considered to be satisfactory in terms of C2.</p>
<p><i>C3 Provide a 32° inclined plane as a component of the building envelope controls to ensure solar access during winter. Refer to condition E of section A2.4 Built form envelopes.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with Condition E as such a 32% inclined place has been provided, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Refer to earlier comments regarding C1 and C2.</p> <p>The proposal is considered to be satisfactory in terms of C3.</p>

<p><i>C4 The plaza is to be designed as an identifiable public space, allowing 24 hour access.</i></p>	<p>Applicant's comment <i>The plaza is an identifiable public space that allows 24 hour public access refer to the Architectural Drawings included at Appendix B.</i></p> <p>The public plaza is designed to permit unrestricted 24 hour public access. It will be identifiable as a public space by virtue of selection of materials and design. The proposal is satisfactory in terms of C4.</p>
<p><i>C5 The plaza is to be designed primarily as a place for people, but will permit vehicles to pass through under the shared zone arrangements for Kiaora Lane.</i></p>	<p>Applicant's comment <i>Refer to Traffic, Access and Parking Report included at Appendix S.</i></p> <p>See earlier comments A2.5.5.1, C2 regarding the shared zone. The shared zone will pass through the plaza thereby allowing vehicles to pass through but with pedestrians having priority.</p> <p>The proposal is considered to be satisfactory in terms of C5.</p>
<p><i>C6 The plaza is to be a minimum of 18m in any direction. It is to have an area of at least 500sqm. which is a single space such that people in any two places in the plaza can see each other.</i></p>	<p>Applicant's comment <i>The plaza is a minimum of 18 metres in any direction and has an area of at least 500sqm, refer to the Architectural Drawings at Appendix B.</i></p> <p>The plaza has a maximum dimension of 29m (measured east to west) (minimum dimension 26.4) x 18m (measured north to south). The area is 506m<sup>2</sup>. Person to person visibility is considered to be satisfactory.</p> <p>The proposal complies with C6.</p>
<p><i>C7 Frontages to the plaza are to accommodate active retail or civic functions.</i></p>	<p>Applicant's comment <i>The frontages to the plaza can accommodate active retail or civic functions, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The plans show the plaza having retail frontages on both sides. The frontage on the southern side includes pedestrian access to the ground floor of the public carpark. The plans depict outdoor dining areas adjacent to the retail outlets.</p> <p>The proposal is considered to satisfy C7.</p>
<p><i>C8 The majority of the area of the plaza is to be uncovered and free of overhanging buildings, colonnades and awnings.</i></p>	<p>Applicant's comment <i>The majority of the area of the plaza is uncovered, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The proposal complies with C8.</p>

<p><i>C9 An overhang of 2m, 3.5m above the finished ground level of the plaza is permitted on the southern side of the plaza.</i></p>	<p>Applicant's comment <i>The proposed development is considered to be consistent with this control, refer to Architectural Drawings included at Appendix B.</i></p> <p>Edge condition A2.4, E + F shows a colonade on the southern side of the plaza with the upper floor projecting 2m, i.e. reducing the distance between the 2 proposed buildings from 18m to 16m. The proposal maintains a clear distance of 18m between the buildings for their full height. There is a lightweight catlevered awining to the retail outlet on the southern side of the plaza that projects 2m (approx.) with a clear height of 3.8m (approx.). This is considered to be an improvement on the edge condition control in terms of the amenity of future users of the plaza.</p> <p>The proposal is considered to satisfy C9.</p>
<p><i>C10 Overhanging balconies of 2.4m on the first floor level are permitted on up to 30% of the building on the northern side of the plaza.</i></p>	<p>Applicant's comment <i>Overhanging balconies of 2.4 metres on the first floor level within the proposed development are not greater than 30% of the building on the northern side of the plaza, refer to Architectural Drawings included at Appendix B.</i></p> <p>An overhanging balcony is proposed to the building on the northern side of the plaza at 1<sup>st</sup> floor. The balcony follows the Kiaora Road alignment and is therefore angled in relation to the southern elevation of the building. The maximum projection is 3.19m (at the western end of the balcony) which is greater than the 2.4m control in C10. Compliance can be achieved by conditioning any consent, see <b>condition C.1h</b>).</p> <p>The balcony occupies less than the 30% requirement.</p> <p>Subject to a reduction in the projection of the balcony, the proposal is considered to be satisfactory in terms of C10.</p>
<p><i>C11 The northern edge of the supermarket, where it adjoins the plaza, should provide windows overlooking the plaza.</i></p>	<p>Applicant's comment <i>The northern edge of the supermarket, where it adjoins the plaza provides windows overlooking the plaza, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The northern edge of the supermarket has an aluminum graphic art wall screen façade which incorporates a segment of shopfront glazing. The supermarket floor plan behind the screen is general display area and counter space. There would be opportunities (albeit limited) for overlooking the plaza from the supermarket via the shopfront glazing. The adjacent stair/travelator enclosure are transparent and will permit overlooking of the plaza.</p> <p>The proposal is considered to be satisfactory in terms of C11.</p>

<i>C12 The plaza shall have a distinctive unified ground treatment.</i>	<p>Applicant's comment <i>The proposed development is not up to this stage of the development however it has been noted.</i></p> <p>The pavement treatment has been discussed in relation to A2.5.5, C1 and C2. A condition is recommended to achieve consistency with the Double Bay Centre Public Domain Improvements Plan. Otherwise the ground treatment of the plaza is satisfactory in terms of C12.</p>
<b>A2.5.5.4 Public toilets</b>	
<b>Principles</b>	
<i>P1 Provide public toilet facilities on the Kiaora Lands site.</i>	
<i>P2 Public toilets are to be in a safe and convenient location.</i>	

Control	Assessment
<p><i>C1 Position the public toilets close to the plaza in a safe and convenient location.</i></p>	<p>Applicant's response <i>Refer to CPTED Report included at Appendix U.</i></p> <p>Public toilets (male, female and unisex accessible) are located at the north eastern corner of the ground floor carpark. They are accessible from the pedestrian access from the plaza to the carpark, a distance of approximately 10m from the plaza. Additional toilets (male, female and unisex accessible) are located on the ground floor of the New South Head Road building and accessible from the arcade.</p> <p>The proposal is considered to be satisfactory in terms of C1.</p>
<p><i>C2 Ensure adequate surveillance to the entries of the public toilets.</i></p>	<p>Applicant's response <i>Refer to CEPTED Report included at Appendix U.</i></p> <p>The entries to the public toilets are off high use pedestrian areas which will allow casual surveillance. Also, the CPTED report submitted with the DA (appendix U) provides for the use of CCTV cameras in high risk areas which should include the public toilet entrances.</p>
<p><i>C3 Access from the plaza to the public toilets is to comply with the performance criteria in the Building Code of Australia DP1 DP2 DP3.</i></p>	<p>Applicant's response <i>Refer to CEPTED Report included at Appendix U.</i></p> <p>The DA includes an Accessibility Review prepared by Morris-Goding Accessibility Consulting dated 29/9/11(Appendix R). The review makes a number of recommendations in relation to the design of sanitary facilities to ensure that compliance with AS 1428.1-2009 and the DDA Access Code 2010 is achieved.</p> <p>DP1, DP2 and DP3 of the BCA are in the access and egress provisions. In relation to access to the public toilets the Accessibility Review states:</p> <p><i>There appears to be an on-grade continuous accessible path of travel from Kiaora Lane to the above mentioned male/female and accessible toilets via the public open space on Kiaora Lane, compliant with AS 1428.1-2009 and the Woollahra Municipal Council Access DCP 2004.</i></p> <p>On this basis the access to the public toilets from the plaza is considered to be satisfactory in terms of C3.</p>

<b>A2.5.6 Carpark and loading dock design</b>	
<p><b>Principles</b>  <i>Ensure the design of the carpark:</i>  <i>P1 Facilitates ease of access.</i>  <i>P2 Facilitates walking and bicycle use.</i>  <i>P3 Provides a high level of safety for all uses.</i>  <i>P4 Minimises opportunities for crime to property and persons through consideration of crime prevention through environmental design principles.</i>  <i>P5 Minimises the amenity impacts of the carparking and loading docks on surrounding properties and public domain.</i></p>	
<b>Control</b>	<b>Assessment</b>
<p><i>C1 Provide a carpark layout that maximises visibility and legibility.</i></p>	<p>Applicant's response  <i>The car park layout maximises visibility and legibility, refer to the Traffic Report included at Appendix S.</i></p> <p>The carparking floor plans are essentially an 'open plan' style. The ground floor has columns laid out on a standard grid pattern supporting the upper floor slab. The roof level is partly open and partly covered with a lightweight weather protection structure over the principal parking area. The covering is a light coloured fabric membrane supported on a steel frame. Ramps, stairs, lifts and other enclosed spaces are on the perimeter of the parking areas.</p> <p>All areas of the parking floors have a high level of internal visibility.</p> <p>The Kiaora Road entry/exit is recessed from the street alignment with 1 entry lane and 2 exit lanes, the central exit lane allowing a right or left turn movement into Kiaora Road .</p> <p>The entry to/exit from the carpark from Anderson Street does not require a turning movement. Also, there is no footpath across the driveway crossing, reducing the likelihood of conflict between cars and pedestrians. Further, there is 1 lane only in either direction.</p> <p>There are separate, 2 lane entrances and exits to and from Patterson Street. The exiting movement, which is at the eastern end of the closed-off section of the street, does not require a turning movement. Entry to the carpark requires a left turn movement only from Patterson Street. Again, there is no footpath across the driveway crossovers.</p> <p>'Way-finding' signage is proposed to assist with the visibility and legibility of the carpark entrances.</p> <p>The carpark is considered to have good internal and external visibility and legibility consistent with the intent of C1.</p>

<p><i>C2 Ensure dedicated pedestrian entry and egress points to the public carparking are available from the plaza, Kiaora Lane, Patterson Street, Anderson Street and the supermarket entry.</i></p>	<p>Applicant's response <i>Dedicated pedestrian entry and egress points to the public car parking are available from the plaza, Kiaora Lane, Patterson Street, Anderson Street and the supermarket entry; refer to the Access Report and Traffic Report included at Appendix R and S respectively.</i></p> <p>Dedicated pedestrian entry/exit/egress/connection between the carpark and Patterson and Anderson Streets has been discussed earlier, see A2.3.2.2 and A2.3.2.3 respectively.</p> <p>Kiaora Lane contains a number of pedestrian only entry and exit points. The supermarket entry, which is on the 1<sup>st</sup> floor, can be accessed via travelators which connect to/from Kiaora Lane and the ground floor carpark and the roof carpark.</p> <p>Pedestrian entry and exit points to the public carparking are considered to be in accordance with C2.</p>
<p><i>C3 Access to liftwells and stairways or directions to the carpark access points must be clearly visible from every carparking space.</i></p>	<p>Applicant's response <i>Access to lift wells and stairways or directions to the car park access points are clearly visible from every car parking space, refer to Traffic Report included at Appendix S.</i></p> <p>As discussed in relation to C1 visibility within the carpark is good. Supplementary directional signage may be required to compliment visibility. A condition is recommended to ensure that C3 is satisfied prior to the occupation of the carpark, see <b>condition F.25</b>.</p>
<p><i>C4 Carparking spaces for disabled people should be located in highly visible and accessible locations and in proximity to lifts and ramps.</i></p>	<p>Applicant's response <i>Car parking spaces for disabled people are located in highly visible and accessible locations and in proximity to lifts and ramps, refer to the Traffic Report included at Appendix S.</i></p> <p>The Accessibility Review prepared by Morris-Goding Accessibility Consultants (dated 29/9/11) submitted with the DA contains the following statement:</p> <p><i>All 7 of the above accessible parking bays are appropriately located close to the passenger lift.</i></p> <p>As such the proposal is considered to satisfy C4.</p> <p>[The Accessibility Review also makes a number of recommendations about the accessible parking bays including that they should be in sheltered areas. The amended plans include weather proof covering to the principal parking area on the roof level, including the accessible parking bays.]</p>



<p><i>C5 Dedicated bicycle parking is to be provided in a convenient location at the rate of 1 bicycle per 25 car spaces.</i></p>	<p>Applicant's response <i>Dedicated bicycle parking has been provided, refer to the Traffic Report included at Appendix S.</i></p> <p>C5 requires 18 dedicated bicycle parking spaces to be provided. The proposal provides 32 such parking spaces. All the spaces are at ground level, 18 are adjacent to Kiaora Lane, 10 are in the pedestrian link between Kiaora Lane and Patterson Street at the western end of the development and 4 are at the Kiaora Road frontage.</p> <p>The location and rate of bicycling parking spaces is considered to satisfy C5.</p> <p>In relation to cycling a detailed submission/objection was received from BIKEast. Their submission maintains that the application is fundamentally deficient regarding cycling and related access and raises the following specific objections:</p> <ol style="list-style-type: none"> <li><i>1. Lack of ground level highly secured bicycling parking and associated locker, shower and change room facilities for workers/staff and longer-stay visitors (e.g. Library visitors!)</i></li> <li><i>2. Poor location of one of the three proposed short-term low security bike parking coral areas and concern about lighting and surveillance.</i></li> <li><i>3. Lack of high standard bicycle routes in and around the Kiaora Lands site, along and across key streets to make these streets suitable and attractive for riding bikes or mobility scooters.</i></li> </ol> <p>The submission looks at certain provisions of the WLEP, Double Bay Centre DCP, Double Bay Centre DCP Appendix 2, Access DCP and the Woollahra Bicycle Strategy 2009.</p> <p>As Council will operate the carpark there is the opportunity for bike storage security and 'end-of-ride' facilities to be reviewed on an on-going basis. It is noted that amenities within the library are still to be confirmed so there is scope to address BIKEast's concerns in point 1 of their objection when these details are being finalised. For this purpose it is recommended that an appropriate condition and advising be included on any consent, see <b>condition F.38 &amp; advising K.24.</b></p> <p>The bike coral area referred to in point 2 of the objection is at the Patterson Street end of the external pedestrian link at the western end of the development. CCTV surveillance of this area is recommended by the urban design review undertaken on Council's behalf by Hassell and has been agreed to by the applicant. CCTV surveillance is an option for bicycle storage security consistent with the Department of Planning's <i>Planning guidelines for walking and cycling</i>. It is also noted that the quantum of bike storage proposed by the development exceeds that required by C5.</p>
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	<p>Point 3 of the objection is considered to be outside the scope of the DA process. Upgrading cycling routes is an ongoing part of the Woollahra Bicycle Strategy. The lack of high standard routes should not excuse the provision of storage and amenity facilities for cyclists.</p> <p>The matters raised by BIKEast are also supported by a submission from Clover Moore, Member for Sydney, who asks that the Kiaora Lands development be consistent with Council's Bicycling Strategy.</p> <p>As discussed above, the proposal is considered to be satisfactory in terms of C5.</p>
<p><i>C6 Dedicated motorbike parking is to be provided in a convenient location at the rate of 1 motorbike per 25 car spaces.</i></p>	<p>Applicant's response <i>Dedicated motorbike parking has been provided, refer to the Traffic Report included at Appendix S.</i></p> <p>C6 requires 18 dedicated motorbike parking spaces are provided. The proposal provides for 19 dedicated motor bike parking spaces. The motorbike parking spaces are all located on the ground floor in 3 separate areas.</p> <p>The location and rate of spaces is considered to be satisfactory in terms of C6.</p>
<p><i>C7 Lighting throughout the car park must conform to the requirements of AS 2890 Off Street Carparking and AS 1680.2 Interior Lighting</i></p>	<p>Applicant's response <i>The proposed development will be designed to comply with the applicable lighting standards.</i></p> <p>Lighting required by C7 should be subject to a condition on any consent, see <b>condition F.29</b>.</p>
<p><i>C8 Pedestrian access ways to, from and around the carpark must be well lit.</i></p>	<p>Applicant's response <i>The proposed development will be designed to comply with the applicable lighting standards.</i></p> <p>Lighting for pedestrian access ways should be conditioned to conform with AS/NZS 1158 <i>Lighting for roads and public spaces</i>, see <b>condition F.28</b>.</p>
<p><i>C9 A ground level through-site pedestrian footpath linking the plaza and Anderson Street must, as a minimum, incorporate the following design and operational features:</i></p> <ul style="list-style-type: none"> <li>– <i>Dignified, direct and unobstructed access from the plaza to Anderson Street.</i></li> <li>– <i>Have a minimum clear width of 2.5m.</i></li> <li>– <i>Have a minimum headroom of 3.0m.</i></li> </ul>	<p>Applicant's response <i>A through-site pedestrian footpath linking the plaza and Anderson Street has been provided in the proposed development, refer to the Access Report included at Appendix R.</i></p> <p>A through-site pedestrian footpath is shown linking the plaza and Anderson Street through the ground floor carpark.</p> <p>The alignment of the footpath is slightly to the west of the plaza and is considered to be reasonably direct and unobstructed. It uses dedicated pedestrian access points to/from the plaza and Anderson Street. It crosses over driveway asiles which may cause some unavoidable conflict which can be ameliorated by line marking and signage. Also, a physical barrier should be provided to</p>

	<p>separate the footpath from adjoining parking spaces, in the form of a kerb or railing. Subject to these requirements, which can be conditioned, the pedestrian footpath is considered to provide a 'dignified' route.</p> <p>The minimum clear width is shown as 1.8m rather than 2.5m. Compliance can be achieved apart from where the proposed trolley stores are located. At these point the path narrows to 1.8m which is considered to be adequate for pedestrian circulation., see <b>condition C.1m</b>). There is a minimum headroom of 3m.</p> <p>Subject to a condition to increase the width of the footpath it is considered to satisfy C9.</p>
<p><i>C10 Vehicular access to the carpark and loading docks south of Kiaora Lane is not to be provided from Kiaora Lane, unless it can be demonstrated that a turntable solution for the Kiaora Lane/Patterson Street loading dock is not feasible.</i></p>	<p>Applicant's response</p> <p><i>The use of a turntable on the subject site is inappropriate for a number of reasons including:</i></p> <ul style="list-style-type: none"> <li><i>the land is low lying and has been determined by Council as flood prone – this is confirmed in the flood study accompanying this DA;</i></li> <li><i>a design which incorporates a turntable will be subject to mechanical and electrical failure during flood events where it cannot be guaranteed that the installed equipment would need to be replaced at significant costs and time delays to operations which has short and long term impacts for site operations and will place at risk continued trade;</i></li> <li><i>the time delays to become operational again following a flood event could be similar to that which has occurred in Queensland during the flood events of January and February 2011 where Woolworths operations were affected for periods well beyond the flood levels subsiding which if a turntable were included would add to further delay which would not be acceptable to Woolworths;</i></li> <li><i>the use of a turntable has been evaluated by Woolworths as an unacceptable Occupational Health and Safety issue for this site operations;</i></li> <li><i>a better streetscape design can be delivered to Kiaora Lane with the proposal; and</i></li> <li><i>the provision of a one-way movement will improve pedestrian safety for users of Kiaora Lane where Council seeks to promote a shared zone.</i></li> </ul> <p><i>As such, the applicant considers the use of a turntable is not feasible and accordingly the design does not include a turntable.</i></p> <p><i>Refer to the Traffic Report included at Appendix S for details relating to the vehicular access to the car park and loading docks south of Kiaora Lane.</i></p> <p>The carpark and main loading dock do not have vehicular access from Kiaora Lane. The loading dock at the western end of the development is a drive-through design with access shown from Kiaora Lane and exit onto Patterson Street. This loading dock services the Dan Murphys liquor store only with other businesses serviced by the</p>

	<p>main, Kiaora Road, loading dock.</p> <p>This matter was raised in an Interim Referral Response by Council's Development Engineer dated 6/1/12 and subsequently by Council in its letter of 13/1/12 to the applicant in the following terms:</p> <p>7. <i>In relation to the Dan Murphy loading area, the Halcrow report states that entry from Kiaora Lane is required because "width constraints in the loading area preclude the use of a turntable large enough to accommodate the medium rigid trucks that will service this store". However, from the plans it appears that there is an 11m clearance for a turntable at this location which should be enough to accommodate a commercially available turntable for an 8.8m medium rigid vehicle. A turntable will allow heavy vehicle access and egress from Patterson Street and provide the opportunity for significant streetscape improvements at the eastern end of Kiaora Lane. Controls C10 and C11 of A2.5.6 of Appendix 2 of the Double Bay DCP provide that access to the carpark and loading docks south of Kiaora Lane is not to be provided from Kiaora Lane unless it can be demonstrated that a turntable solution for the Kiaora Lane/Patterson Street loading dock is not feasible. The Halrow report does not adequately address this issue.</i></p> <p>TPG responded by letter dated 15/2/12 which was accompanied by a letter from Halcrow dated 10/2/12. This letter reiterates the matters raised in the Applicant's Comment above.</p> <p>Council's Development Engineer referral response (see <b>annexure 2A</b>) includes the following comments:</p> <p><i>Access to the smaller loading dock is proposed from Kiaora Lane and egress is proposed to Patterson Street. If a turntable were installed in the smaller loading dock, this would allow heavy vehicle access and egress from Patterson Street. This would then allow streetscape improvements at the western end of Kiaora Lane.</i></p> <p>.....</p> <p><i>It is noted that the smaller loading dock is only for two to four deliveries per day to the proposed Dan Murphys store. The impact of a turntable breaking down at this location would therefore be less significant than the breakdown of a turntable servicing a Woolworths supermarket, which requires many more deliveries per day.</i></p> <p>The most relevant principles are P3, safety and P5, amenity impacts.</p> <p>Access into the loading dock as proposed would require a right hand turn movement from Kiaora Lane across the northern part of the outside pedestrian link between Kiaora Lane and Patterson Street. The loading dock</p>
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	<p>entrance is setback 7m from Kiaora Lane. A line of bollards is shown between the area of the pedestrian link required for truck manoeuvring and the adjoining public pedestrian space to the east. The space to the east is depicted as an outdoor dining area associated with the adjoining retail outlet, although the actual use of that retail outlet is undetermined at this time. The Dan Murphys is expected to receive up to 4 deliveries per day. This arrangement represents a potential conflict/safety issue between trucks and pedestrians. Conversely the requirement for a turntable would mean trucks entering and leaving the loading dock via Patterson Street. This would increase the number of truck movements adjacent to the Patterson Street carpark entry and exit. It would require trucks entering the loading dock from Patterson Street to make a left turn using both lanes in this 2 way street. In terms of P3 there are safety advantages and disadvantages related to both options.</p> <p>Regarding amenity impacts the proposal reduces the number of truck movements on Patterson Street to vehicles exiting the loading dock. Whereas the turntable option would mean that trucks both entering and exiting the loading dock would use Patterson Street. The proposal would benefit the neighbouring residential properties in terms of noise and traffic flow both in Patterson Street and at the intersection of Manning Road.</p> <p>Public domain amenity impacts essentially relate to how the proposal affects the use of the pedestrian link and the space to the east of the loading dock entry manoeuvring area. The urban design review undertaken by Hassell on Council's behalf makes recommendations regarding design, safety and the adjacent facades of the proposed building in relation to the pedestrian link. It includes the following comment:</p> <p><i>Furthermore, it is anticipated that the actual level of pedestrian movement along this link will be low as it is disconnected from the wider pedestrian network.</i></p> <p>This suggests that the potential for pedestrian/delivery vehicle conflict would be low particularly considering that the relative number of deliveries is also low. Also, the review does not make any recommendations regarding the proposed access arrangements for the loading dock, its impact on the use of the adjoining public domain area or the impact on the building's design in the context of the future character of Kiaora Lane. C10 contemplates access from Kiaora Lane, although it is not the preferred option. Therefore the proposal would not be an unanticipated planning outcome.</p> <p>A2.5.5.1 comments as follows in respect to Kiaora Lane:</p> <p><i>Kiaora Lane is to function as a shared pedestrian and vehicular way for the whole of its length.</i></p>
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	<p><i>Its role as a service lane will continue but this is to be subservient to its primary role as a high quality public space. The predominant character of the lane is to be that of a high quality, pedestrian dominated space that maximises pedestrian connections between other public spaces and building entrances.</i></p> <p>The proposal is not considered to be inconsistent with this statement.</p> <p>The applicant's flood related reasoning for maintaining that a turntable solution is not feasible would seem to be a Woolworth's centric matter. The fact that they have turntables in other stores suggests that it can be done, i.e. it is feasible, in Double Bay notwithstanding their stated practicality concerns.</p> <p>On balance, the proposal is considered to be satisfactory in terms of C10.</p>
<p><i>C11 Access to loading docks may be from Kiaora Road and Patterson Street only, unless it can be demonstrated that a turntable solution for the Kiaora Lane/Patterson Street loading dock is not feasible.</i></p>	<p>Applicant's response <i>Refer to discussion under C10 above. Refer to the Traffic Report included at Appendix S for details in regards to the Kiaora Road and Patterson Street loading dock access.</i></p> <p>Refer to the assessment in relation to C10.</p>
<p><i>C12 If a loading dock is located off Patterson Street, the design and size of the dock must be limited to accommodate fixed rigid vehicles only (i.e. not semi-trailers).</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S.</i></p> <p>The traffic report by Halcrow submitted with the DA states that 8.8m rigid trucks will use the Patterson Street (Dan Murphys) loading dock. It is noted that Halcrow's letter of 10/2/12 makes reference to 12.5m rigid trucks using this delivery dock. Either way the information submitted with the DA indicates that the loading dock will be used in accordance with C12.</p> <p>It is recommended that a condition to this effect be imposed on any consent, see <b>condition I.27</b>.</p>
<p><i>C13 Vehicle ramps between carparking levels are to be enclosed to contain noise and light spill impacts. The walls and ceiling of the ramp enclosure are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S.</i></p> <p>There is 1 vehicle ramp between the carparking levels, which is located at the western end of the development. It is shown as being enclosed by walls and a roof. Regarding the treatment of the walls and ceiling of the enclosure a condition is recommended to ensure compliance with C13, see <b>condition F.20</b>.</p>

<p><i>C14 Loading docks are to be designed to minimise conflict between pedestrians and vehicles.</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S.</i></p> <p>Refer to assessment of A2.3.2.1, A2.3.2.2 and A2.5.6, C10. The proposal is considered to be satisfactory in terms of C14.</p>
<p><i>C15 Loading docks are to be as unobtrusive as reasonably possible.</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S.</i></p> <p>The Dan Murphys loading dock is at the western end of the Kiaora Lane frontage and setback 11m from lane alignment. It is beneath an overhanging section of the vehicle ramp enclosure. The entrance doorway is fitted with a roller door.</p> <p>The Patterson Street exit abuts the street alignment and is fitted with a timber panel-lift door. The entry and exit door openings are 5m wide x 4.2m. The loading dock is to accommodate 12.5m long rigid trucks.</p> <p>The Kiaora Road loading dock is toward the southern end of the frontage, recessed up to 4m from the street alignment and beneath an overhanging section of the 1<sup>st</sup> floor commercial offices. The opening width is 8m x 5.6m high and fitted with a timber panel-lift door. The loading dock is to accommodate 19m long semi-trailers.</p> <p>Considering the functional requirements of the loading docks they are considered to be consistent with C15.</p>
<p><i>C16 Loading dock doors are to be no larger than the dimensions required for functional operation.</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S.</i></p> <p>Given the functional nature of the loading dock doors, their dimensions, as described in C15, are considered to conform with C16.</p>
<p><i>C17 Loading docks must be fully enclosed.</i></p>	<p>Applicant's response <i>The loading docks within the proposed development are fully enclosed; refer to the Architectural Drawings and Traffic Report included at Appendix B and Appendix S respectively.</i></p> <p>The loading docks are fully enclosed as required by C17.</p>
<p><i>C18 The loading docks are to provide for the forward entry and exit of service vehicles. The docks are to be designed so that all truck reversals can take place within the loading docks with the loading dock doors closed.</i></p>	<p>Applicant's response <i>The loading docks within the proposed development have been designed to comply, refer to the Traffic Report included at Appendix S.</i></p> <p>The loading docks are designed to comply with C18.</p>

<p><i>C19 The loading docks are to be provided with automated doors with a surface mass greater than 3kg/m<sup>2</sup> and the sides, head and thresholds of each is to be designed to obviate, or minimise any undesirable sound leakage.</i></p>	<p>Applicant's response <i>The loading docks within the proposed development have been designed to comply, refer to the Traffic Report included at Appendix S.</i></p> <p>This can be imposed as a condition of any consent, see <b>condition C.11) i.</b></p>
<p><i>C20 The loading dock doors are to be designed so that their noise emission components when either opening or closing are no more than 5dB(A) above the background sound level when measured at the façade of the nearest, or any other residential property.</i></p>	<p>Applicant's response <i>The loading docks within the proposed development have been designed to comply, refer to the Acoustic Report included at Appendix L.</i></p> <p>This can be imposed as a condition of any consent, see <b>condition C.11) ii. &amp; I.16.</b></p>
<p><i>C21 The ceiling, as well as significant areas of the walls of the loading docks are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area and ensure there is minimum possibility of the loading docks impacting on neighbours.</i></p>	<p>Applicant's response <i>The loading docks within the proposed development have been designed to comply, refer to the Traffic, Access and Parking Report included at Appendix S.</i></p> <p>This can be imposed as a condition on any consent, see <b>condition C.11) iii.</b></p>
<p><i>C22 The consent authority may impose conditions restricting the operation of the loading docks and carparks to specified hours.</i></p>	<p>Applicant's response <i>The applicant is aware that Council may impose conditions restricting the operating hours of the loading docks within the proposed development.</i></p> <p>The Statement of Environmental Effects states the Woolworths supermarket and Dan Murphys dock hours as Monday to Sunday 6am – 10pm, the Thomas Dux to be Monday to Sunday 9am – 9pm and the carpark 24 hours a day. (2.3.5)</p> <p>The Car Park and Loading Area Management Plan, which is appendix B of the Halcrow (traffic) report dated 19/10/11 states: <i>To prevent night time noise impact on residents of Anderson Street and Court Road the Anderson Street driveways will be closed between the hours of 10:00pm and 7:00am.</i></p> <p><i>Initially no night time restrictions are proposed on the use of the roof top car parking..... It would be a matter for the operator to restrict access to the upper level or in some other way mitigate any nuisance from the use of this parking should such actually arise.</i></p> <p><i>In the event that motorcycle use of the upper level was found to create a nuisance, signage prohibiting access to the upper level would be provided by the operator.</i></p> <p><i>No vehicles will enter, exit or load within the loading areas between the hours of 10:00pm and 7:00am.</i></p>



	<p>The Reverb (acoustic) report states ... .., <i>while loading dock deliveries may occur at any time from 7am to 10pm.</i> (1.3)</p> <p>The Thomas Dux loading dock is the same as the Woolworths supermarket.</p> <p>A condition of consent should be imposed to clarify that the use of the loading docks is not to occur outside the hours of 7am to 10pm and for waste collection purposes 7am to 6pm, see <b>condition I.22</b>. Also that the loading dock and carpark operations are to be in accordance with the Car Park and Loading Area Management Plan. This would allow the operator of the carpark to review the use of the roof level parking and in particular the use of the roof by motor bikes, see <b>conditions F.23 &amp; I.26</b>.</p>
<p><b>C23</b> A Carparking and Loading Dock Plan of Management is to be prepared and submitted with the development application for the comprehensive redevelopment of the site. The Plan of Management must address the following matters:</p> <ul style="list-style-type: none"> <li>– the designated areas in which motorcycles will be permitted to park.</li> <li>– the areas within the carpark from which motorcycle traffic will be excluded.</li> <li>– the hours of operation, or restrictions, that may be imposed in relation to the use of the upper level carpark and the mechanisms through which any such restrictions may be further strengthened in order to deal with unexpected situations.</li> <li>– explicit restrictions in relation to times of use of specific entries or exits which may be imposed to control, or minimise potentially intrusive nocturnal noise emission. This requirement most aptly applies to the Anderson Street entry and exit because vehicular movement both within, and outside the carpark will be exacerbated by the nocturnal use of that entry and exit.</li> <li>– signage to identify entry restrictions for vehicles which may be too large, too high or too noisy to enter the carparks.</li> <li>– appropriate signage and designated areas of the ground floor carpark where patrons of licensed premises should park their vehicles in order to minimise the potential for neighbour noise at night.</li> </ul>	<p>Applicant's response <i>The Car Parking and Loading Dock Plan of Management for the proposed development can be found at the Traffic Report included at Appendix S.</i></p> <p>The Council's letter to the applicant dated 2/2/12 requested certain information to be submitted, including: 6. A 'Carparking Plan of Management' is to be submitted to Council complying with the requirements of control 23 of A2.5.6 – 'Carpark and loading dock design' of the Double Bay Centre Development Control Plan 2002.</p> <p>The applicant's response via an <i>Addendum to Reverb Acoustic Report 11-1605-R1</i>, dated 1/3/12 refers to the management plan submitted as part of the Halcrow report of 19/10/11, referred to in C22.</p> <p>Council's Environmental Health Officer's comment on the applicant's response to item 6 is <i>No further information is required. It should be noted that the car parking plan of management may need to be amended should the car park be owned and managed by Woollahra Council.</i></p> <p>Conditions are recommended to include provisions in the Carparking and Loading Dock Plan of Management to regarding the imposition of restrictions on the use of the roof top carparking ( see <b>condition F.23</b>) and to restrict the use of the Anderson Street carpark entry/exit to 9pm ( see <b>condition I.28</b>). Subject to these conditions the Plan of Management is considered to be satisfactory in terms of C23.</p>

<p><i>C24 Appropriately designed and acoustically effective barriers are to be provided around the perimeter of the ground floor carpark. The uppermost 2m or 3m section of the acoustic barrier is to be angled inwards. The acoustic barriers are to be provided with a sound absorbing lining to reduce the sound reflections and reverberant characteristics of the carpark.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>It is considered that this issue has been addressed by the ground floor carpark being fully enclosed on its southern side. This provides for an acoustic outcome superior to the one envisaged by C24.</p>
<p><i>C25 To achieve the noise goal referred to in A2.5.3 C11, a roof is to be provided over the carpark, adjacent to the Kiaora Road vehicular entry and exits at the rear of No. 8 Kiaora Road. The underside of that roof is to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>This could be included as a condition in any consent, see <b>condition C11)vii.</b></p>
<p><i>C26 The soffit of the supermarket floor is to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>This could be a condition on any consent, see <b>condition C.1 d) v.</b></p>

<p><i>C27 The carpark floors, as well as the interconnecting ramp between the ground level and rooftop carpark are to have a surface that will not generate tyre squeal. The development application must include the specifications for the quality of the surface finish which may be achieved by the addition of an appropriate and functionally effective particular dusting or surface coating or by the application of fine sand on the finished floor surface before it has cured which will ensure positive tyre adhesion, and preclude tyre squeal problems.</i></p>	<p>Applicant's response <i>Refer to Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>Council's letter to the applicant dated 2/2/12 requested the submission of:</p> <p>8. <i>A detailed specification of the carpark floors and interconnecting ramp to preclude tyre squeal is required to be submitted in accordance with the requirements of control C27 of A2.5.6 – 'Carpark and loading dock design' of the Double Bay Centre Development Control Plan 2002.</i></p> <p>The Addendum to the Reverb report responded as follows: <i>Item C27 of the DCP appears to provide options to treat concrete floors already in place. Given that the concrete floors will be constructed as part of the proposal the simplest method to reduce tyre squeal is to ensure that polished (steel float) finishes are not permitted. Various other forms of concrete finishing are effective at reducing tyre squeal such as broom finish, coving trowel, timber float, etc.</i></p> <p>Council's Environmental Health Officer comments on the applicant's response to item 8 include <i>The forms of concrete finishing that are effective in controlling tyre squeal such as broom finish, coving trowel, timber float and the like are to be incorporated as part of the car park concrete floors and interconnecting ramps surface finish.</i></p> <p>A condition to this effect can be included in any approval., see <b>condition E.29</b>.</p>
<p><i>C28 The interconnecting ramp between the ground level and rooftop carpark is to have a smooth primary surface and not parallel ribbed surfaces. The ramp should incorporate small angled parallel grooves in a chevron pattern which may be cut into the surface of the cured concrete. The surface must be designed to preclude structural vibration and adverse related intrusive noise levels (or noise radiation from the main building structure) as well as provide positive tyre adhesion in the presence of water or oil.</i></p>	<p>Applicant's response <i>Refer to Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>This can be included as a condition on any consent, see <b>condition C.1 i) vi</b>.</p>

<p><i>C29 The carpark is to be equipped with an effective electronic vacant car space identification system through which a driver may more rapidly find an empty car space to minimise the need to circle around the carpark to find where they can park.</i></p>	<p>Applicant's response <i>Council may wish to implement an electronic vacant car space identification system as part of its operational management of the public car parking area when complete, however this does not form part of this DA as the applicant will not own and operate the public car park.</i></p> <p>Notwithstanding that the applicant may not own and operate the public carpark it is considered that a condition should be imposed on any consent regarding C29, see <b>condition F.22.</b></p>
<p><i>C30 Appropriately designed and effective acoustic barriers are to be provided around the perimeter of the rooftop carpark to prevent noise impact on surrounding residential properties.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted. This could also be accommodated via condition.</i></p> <p>The Council's letter to the applicant dated 2/2/12 requested certain information to be submitted, including:</p> <p>7. <i>The location and design criteria of the acoustic barriers to be located on the rooftop carpark are required to be included on the development application plans. The specific design specifications of the barriers are to be included in the acoustic report.</i></p> <p>The addendum to the Reverb acoustic report refers to design plans prepared by Nettleton Tribe 3109_SK_563 and 3109_SK_564 and comments <i>Construction materials are either masonry, or a masonry and transparent material (such as Plexiglass or similar) combination. These materials are acceptable providing the transparent material is a minimum of 12mm thickness.</i></p> <p>Council's Environmental Health Officer's comments in relation to the applicant's response to item 7 conclude <i>No further comment required.</i> Also, see <b>condition A.3.</b></p>
<p><i>C31 The carpark ramp is to be fully enclosed as required to meet the noise goal set out in A2.5.3 C11. If necessary, the enclosure is to extend beyond the point where the ramp surface intersects with the upper level carpark floor.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted. This could also be accommodated via condition. Refer to the Traffic Report included at Appendix S.</i></p> <p>This could be imposed as a condition on any consent, see <b>condition F19.</b></p>

<p><i>C32 The ceiling and walls of the entry and exit structure to Kiaora Road are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>This can be imposed as a condition of consent on any approval, see <b>condition C.1 l) vii.</b></p>
<p><i>C33 The south-eastern wall of the carpark entry/exit to Kiaora Road must extend to the street alignment.</i></p>	<p>Applicant's response <i>Refer to the Traffic Report included at Appendix S and refer to the Architectural Drawings included at Appendix B.</i></p> <p>This can be imposed as a condition of any consent, see <b>condition C.1 i).</b></p>
<p><b>2.5.7 Roof design</b></p>	
<p><b>Principles</b> <i>P1 The roofscape should not present as an obtrusive and single unarticulated mass.</i> <i>P2 The roof is to be designed to minimise the amenity impacts to surrounding residences.</i></p>	
Control	Assessment
<p><i>C1 A combination of landscape treatments and shade structures should be used so that the roofscape does not present as an obtrusive and single unarticulated mass.</i></p>	<p>Applicant's response <i>A combination of landscape treatments and shade structures have been incorporated into the roof of the proposed development so that the roofscape does not present as an obtrusive and single unarticulated mass, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The roofscape includes shade structures to the primary carparking area (covering about 111 spaces). There are additional steel sunshades to the perimeter of the roof at its eastern and western ends.</p> <p>The roof to the ground floor along the southern edge of the development is shown to be extensively landscaped. Additionally, there is a void at the eastern end of the carpark that includes landscaping in the form of feature trees.</p> <p>Areas at roof level such as the travelators, lifts, stairs and plant rooms will be enclosed with separate roofs and project above the parking surface.</p> <p>This combination of treatments is considered to satisfy C1.</p>

<p><i>C2 A combination of landscape treatments and shade structures should be used to minimise glare from the surface of the roof top and the cars parked on the roof.</i></p>	<p>Applicant's response <i>A combination of landscape treatments and shade structures have been used to minimise glare from the surface of the roof top and the cars parked on the roof of the proposed development, refer to the Architectural Drawings included at Appendix B.</i></p> <p>Refer to the assessment for C1.</p> <p>A condition should be imposed requiring the colour and texture of materials at roof level to be selected to obviate glare, see <b>condition D.22</b>. Sufficient of the carparking spaces will be covered to minimise reflection from car windscreens, etc.</p>
<p><i>C3 The roof treatment is to provide shade structures for vehicles.</i></p>	<p>Applicant's response <i>Roof treatment has been provided for the proposed development, refer to the Architectural Drawings included at Appendix B.</i></p> <p>The roof treatment includes shade structures, as described in C1, which will provide shade for vehicles. The shade structures are considered to be satisfactory with regard to C3.</p>
<p><i>C4 Surface treatments which minimise noise are to be used to minimise tyre squeal.</i></p>	<p>Applicant's response <i>Refer to the Acoustic Report included at Appendix L. The materials and finishes used in the car park of the proposed development are shown in the boards submitted.</i> <i>This could also be accommodated via condition.</i></p> <p>See A2.5.6, C27.</p>
<p><i>C5 To contain noise, motorbike parking should be limited to the ground level.</i></p>	<p>Applicant's response <i>Motorbike parking is limited to the ground floor of the proposed development, refer to the Architectural Drawings and the Acoustic Report included at Appendix B and Appendix L respectively.</i></p> <p>All proposed, designated motorbike parking is located on the ground floor. Also see A2.5.6, C22.</p>
<p><i>C6 The roof design should minimise light spill from cars.</i></p>	<p>Applicant's response <i>The roof design of the proposed development can include hoods on lighting structures to direct light downwards and will comply with the Australian Standard (which can also be conditioned), and therefore minimises light spill. Barriers/balustrades are proposed around the perimeter of the roof to prevent spill from cars, refer to the Appendix B.</i></p> <p>The roof is designed with solid perimeter walls varying in height but with the minimum height being 1.4m above the parking surface. The ramp is at the western end of the development and is designed so that the headlights of vehicles going up the ramp will not be directed towards</p>

	<p>surrounding residential properties. The ramp is also enclosed which will prevent light spill from vehicles using it.</p> <p>The proposal is considered to be satisfactory in terms of C6.</p>
<p><i>C7 The design of fixed lighting on the roof should comply with AS 428- 1997 Control of the Obtrusive Effects of Outdoor Lighting (urban standards).</i></p>	<p>Applicant's response <i>The proposed development will be designed to comply with the applicable lighting standards and can be conditioned for the same.</i></p> <p>This can be imposed as a condition on any consent, see <b>condition F.18.</b></p>
<p><b>A2.5.8 Flooding and water sensitive urban design</b></p>	
<p><b>Principles</b></p> <p><i>P1 Ensure there is no increase in stormwater runoff from the site.</i></p> <p><i>P2 Ensure the built form on the site does not block overland flow, in such a way as to impact on adjoining properties.</i></p> <p><i>P3 Use water sensitive urban design techniques to reduce demand on the Sydney water supply and to provide water for plant irrigation.</i></p> <p><i>P4 Ensure development on the site is adequately protected from flooding.</i></p> <p><i>P5 The new plaza should act as a part of the overland flow path for stormwater.</i></p>	
<p><i>C1 Development is to be designed having regard to the recommendations of a flood study prepared by a suitably qualified hydraulic engineer. The flood study must identify how property on and off the site, including the public domain, will be protected from the 1 in 100 years flood event.</i></p>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>Appendix N of the SEE consists of 2 reports by Worley Parsons dated 27/10/11 being <i>Kiaora Lands Redevelopment DA flooding, stormwater and pavement design report</i> and <i>Flood impact assessment report</i>.</p> <p>Appendix D of the SEE consists of:</p> <ul style="list-style-type: none"> <li>• Stormwater drainage concept design plans prepared by Warren Smith &amp; Partners dwg. nos. H-10 to 07, issue 03 dated 18/10/11</li> <li>• Kiaora Lane Concept Plan (Civil) by BG&amp;E dwg. nos. SKC01 to 06</li> </ul> <p>These documents were commented upon in Council's Technical Services Interim Referral Response 6/1/12. Regarding site drainage the stormwater concept plans by Warren Smith &amp; Partners and the civil plans by BG&amp;E were considered to be generally satisfactory, subject to amendments regarding water sensitive urban design. These amendments related to the gutter system, inlet pits and rain-gardens.</p> <p>Regarding flooding and overland flow the flood impact assessment by Worley Parsons was prepared using methods acceptable to Council and Technical Services were satisfied with the retail flood protection measures. Regarding the carpark, amendments and information were requested on a flow-through fence adjacent to the open stormwater channel in Kiaora Road and for the applicant to liaise with Sydney Water. This was because proposed floor levels correspond to flood water depths of up to 600mm (this factors a blockage of the open</p>

	<p>stormwater chanel).</p> <p>The matters raised in the Interim Referral Response were included in Council's letter to the applicant dated 13/1/12 requesting the submission of additional information.</p> <p>A letter dated 15/2/12 was received from TPG responding to these matters. The response included a letter from BG&amp;E dated 25/1/12 and a drawing, <i>Sydney Water Culvert Barrier Fence</i>, CSK001, rev. A. (see <b>condition A.3</b>)</p> <p>Council's Technical Services referral response of 28/3/12 comments on the applicant's response and recommends approval subject to conditions (see Annexure2).</p>
<i>C2 Development, including services, below the 1 in 100 years flood level is to be designed to be safe in a flood event.</i>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>Refer to comments in C1.</p>
<i>C3 Provide a Site Emergency Response Plan (SERP) demonstrating the ability to safely evacuate persons to a safe refuge area.</i>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>Part 9 of the Worley Parsons <i>DA flooding, stromwater and pavement design report</i> is a <i>Flood emergency response plan</i>. It includes an evacuation strategy.</p> <p>This is considered to be satisfactory in terms of C3.</p>
<i>C4 On site detention is not required.</i>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>Noted.</p>
<i>C5 Collect rainwater for non-potable uses on site.</i>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>Rainwater tanks with a total capacity of 140,000 litres are proposed comprising 100,000 litres in the south eastern corner and 5,000 litre in the south western corner of the Kiaora Lane building and 35,000 litres at the southern end of the New South Head Road building.</p> <p>This is considered to be satisfactory in terms of C5.</p>
<i>C6 The treatment of the roof should ensure that stormwater runoff is not increased and that the quality of runoff from the site fulfils the requirements of the Australian and New Zealand Environment Conservation Council and Agriculture and Resource Management Council of Australia and New Zealand Guidelines 2000 (www.deh.gov.au/water/quality/nsqms/index.html).</i>	<p>Applicant's comment <i>Refer to Flood Studies included at Appendix N.</i></p> <p>See comments in relation to C1.</p>



<b>A2.5.9 Environmentally sustainable design</b>	
<b>Principles</b>	
<i>P1 Promote environmentally sustainable design.</i>	
<b>Controls</b>	<b>Assessment</b>
<p><i>C1 Development must be designed to provide for best practice environmentally sustainable design outcomes as may be established through the Green Star Certified Rating system, or a similar tool.</i></p>	<p>Applicant's comment</p> <p><i>The proposed development has been designed to provide for best practice environmentally sustainable design outcomes, refer to ESD Reports included at Appendix O.</i></p> <p>Appendix O of the SEE comprises:</p> <ul style="list-style-type: none"> <li>• <i>Woolworths sustainable design</i>, dated May 2011</li> <li>• <i>ESD review by AECOM</i>, dated 5/4/11</li> </ul> <p>Council's Team Leader Environment &amp; Sustainability provided a referral response – ESD dated 30/1/12, see <b>annexure 10A</b>. The response notes the relevant sections of the Double Bay DCP, i.e. section 6.6 and Appendix 2. In relation to C1 it comments:</p> <p><i>The Green Star Rating system can NOT be used to assess the Kiaora Lands development as there is currently no Green Star rating tool for mixed use buildings or Supermarkets.</i></p> <p><i>The submitted ESD review prepared by AECOM includes the results of an assessment of the relative energy and water consumption of the Kiaora Lands project against the NABERS (National Australian Built Environment Rating System) Retail and Office Energy and Water Rating Tools.</i></p> <p><i>NABERS (National Australian Built Environment Rating System) is a performance-based rating system for buildings. NABERS rates a commercial office, hotel or residential building on the basis of its measured operational impacts on the environment.</i></p> <p><i>The development proposal is satisfactory in terms of ESD subject to compliance with the Conditions of Consent outlined in this referral response.</i></p> <p>Under energy the following comments are included:</p> <p><i>AECOM have undertaken an energy assessment using the NABERS energy retail and office Energy Tools.</i></p> <p><i>The results demonstrate that the proposed development will meet the equivalent of a 5 star NABERS energy requirement for the office HAVAC system and the retail car park ventilation system.</i></p> <p><i>Further detail is required regarding the allocated plant space for the office air conditioning in the supermarket building.</i></p> <p><i>Further detail is also required regarding the location and size of the gas driven HVAC equipment for both buildings.</i></p> <p>A number of conditions are recommended in relation to the landscape plans, stormwater drainage plans, office</p>

	<p>plant space/gas HVAC equipment and rainwater tanks and water saving fixtures and fittings.</p> <p>Subject to these conditions the proposal is considered to be satisfactory in terms of C1, see <b>conditions C.25-28 &amp; F.17.</b></p>
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### 13.1.1 Other provisions of the Double Bay Centre DCP

As mentioned earlier, the provisions of Appendix 2 prevail over parts 3, 4 and 5. The provisions under Part 6 – Development controls apply but in many instances are covered by the provisions of Appendix 2. This is particularly the case for Part 6.1 – General format, Part 6.2 – Use, Part 6.3 – Urban character and Part 6.4 – Relationship to public domain. Further comment in relation to those parts is not considered necessary, apart from 6.4.6 – Signage and advertising.

Council's Compliance Officer prepared a Referral Response dated 26/3/12 regarding proposed signage. A total of 26 signs are proposed. The Referral Response identifies 2 signs as being non-compliant with C1 which provides that signage be integrated with building design. These are a sign on the Kiaora Lane elevation of the at roof level of the Kiaora Lane building displaying the Woolworths logo and a vertical projecting wall sign displaying the word "LIBRARY" at the eastern end of the Kiaora Lane elevation of the New South Head Road building. The roof level sign is recommended for deletion while the "LIBRARY" sign is considered to be satisfactory as it is a building identification sign which is permissible under C3. The Referral Response recommends that illuminated flush wall signs on the Kiaora Lane/Patterson Street pedestrian link be integrated into 1 sign in order to satisfy the principles of Part 6.4.6 (these signs are shown as being integrated on photomontages). Five (5) other signs have been identified as having non-consequential departures from the controls. The Compliance Officer also states that, subject to the recommended modifications, the proposal satisfies the objectives of SEPP 64 and the assessment criteria in Schedule 1.

The Compliance Officer's recommendations are supported, see **conditions C.1 k) & F.15.**

Part 6.5 – Environmental amenity includes provisions for visual (6.5.1) and acoustic (6.5.2) privacy. Regarding visual privacy 6.5.1 essentially relates to mutual privacy between residential properties. The proposed development has no residential component. Existing adjoining residential development is generally to the south of the proposed development. Given the setbacks proposed the potential for undue visual privacy impacts are limited. The most vulnerable of the neighbouring properties is 8 Kiaora Road, a 3 storey residential flat building. The proposed development includes driveways to the carpark at ground level with a 2.4m landscaped setback to the north of 8 Kiaora Road. Commercial offices at the 1<sup>st</sup> floor are setback 9.46m with the setback, i.e. the roof to the driveway, being landscaped. Privacy screens are proposed to the southern side of the commercial offices which face toward 8 Kiaora Road. These measures are considered to provide a sufficient level of visual privacy for the occupants of 8 Kiaora Road consistent with part 6.5.1.

There are numerous provisions in Appendix 2 relating to acoustic privacy. These are discussed under part 15 – Likely impacts of the proposal.

Parts 6.5.3 – Landscaped open space and 6.5.4 – Private open space are directed towards proposed residential development and therefore are not relevant to the assessment of this DA.

Part 6.6 – Sustainable design principles, includes controls for energy efficiency and conservation (6.6.1), natural daylight and ventilation (6.6.2), solar access (6.6.3), glazing (6.6.4), water conservation (6.6.5), stormwater and pollution minimisation (6.6.6), waste minimisation (6.6.7), environmentally sustainable building materials (6.6.8) and geotechnology and hydrogeology (6.6.9). The environmentally sustainable design provisions of Appendix 2 also deals with the type of matters covered by 6.6 that would be relevant to the assessment of this DA.

Regarding part 6.6.3 – Solar access, Appendix 2 includes detailed edge condition requirements which would have the effect of controlling the amount of solar access to adjoining residential properties. The proposal is generally compliant with the edge condition requirements of Appendix 2 and in some situations conditions have been recommended to achieve compliance. Shadow diagrams submitted with the DA indicate that adjoining residential properties will still receive a significant amount of direct sunlight to windows and open space areas that are currently not overshadowed. The impact on adjoining properties is not considered to be inconsistent with that envisaged by 6.6.3 which requires that 4 hours of sunlight access be maintained to habitable room windows and private open space.

Part 6.7 - Access includes controls for pedestrian access and mobility (6.7.1), on-site parking (6.7.2), vehicle access (6.7.3), first floor parking (6.7.4) and site facilities (6.7.5). Again, there are controls in Appendix 2 that also deal with these issues. Under Part 6.7.2 – On-site parking, the development generates the following carparking demand.

Use	Generation rate	GFA	Parking required
retail	3.5 spaces/100m <sup>2</sup> GFA	9,750	341
commercial	2.0 spaces/100m <sup>2</sup> GFA	3,250	65
(library)	(2.0 spaces/100m <sup>2</sup> GFA)	(2,235)	(45)
<b>Total</b>			<b>406 (451)</b>

NOTE: The figures for the library, show in (), show the parking generated by the library using the rate for community facilities under the Council's Parking DCP. The Double Bay Centre DCP has no parking rate for libraries.

The development proposes 446 parking spaces and therefore satisfies the number of parking spaces the development would generate under the Double Bay Centre DCP. Including the library would result in a shortfall of 5 parking spaces.

These calculations do not take account of the existing public parking (145 spaces) in the Kiaora Lane and Anderson Street carparks. Parking issues are discussed under the Parking DCP and in Part 15 – Impacts, of this report.

Part 6.8 – Application of concessions, relate to cultural facilities (6.8.1) and corner lots (6.8.2) neither of which are considered relevant to the assessment of this DA.

The proposal is considered to be satisfactory with regard to the relevant provisions of Part 6 of the Double Bay Centre DCP.

### 13.2 Parking DCP (adopted 23/3/11)

Assessment of this proposal under the Parking DCP will not necessarily give an accurate indication of the parking implications of the development. This is because it does not take account of existing public parking. There are 145 public parking spaces in the existing Kiaora Lane and Anderson Street carparks. Also, the Double Bay Centre DCP prevails in the event of any consistency with the Parking DCP (see 1.5.4). Nevertheless, the following is an assessment based on the Parking DCP.

Part 2.1.2 of the Parking DCP provides:

***New development***

*Where a building is to be totally demolished and replaced, parking will be provided at the rate specified in this plan. No parking credits will be allowed for the current building and its use.*

Control 6.7.2, C1 of the Double Bay Centre DCP provides:

*Car parking provision must comply with the Woollahra Development Control Plan for Off-Street Parking Provision and Servicing Facilities (now the Parking DCP) except where detailed below.*

The Double Bay Centre DCP has parking generation rates for retail (3.5 spaces per 100m<sup>2</sup> of GFA) and commercial (2 spaces per 100m<sup>2</sup> of GFA) premises in part 6.7.2. These are the rates that need to be used to calculate carparking generated by the development by virtue of part 6.7.2 rather than the rates under the Parking DCP for the same uses (under the Parking DCP the rate for retail and supermarkets is the same as the Double Bay Centre DCP, i.e. 3.5 spaces per 100m<sup>2</sup> GFA, however, the rate for offices is 2.5 spaces per 100m<sup>2</sup> of GFA which is higher than the 2 spaces per 100m<sup>2</sup> of GFA under the Double Bay Centre DCP).

There is no parking generation rate for libraries in the Double Bay Centre DCP. Therefore, the parking generation rate under the Parking DCP should be used. These are in Part 2 and the most appropriate use under Table 2.1 is considered to be *community facility* which has a parking generation rate of 2 spaces per 100m<sup>2</sup>.

Under the Parking DCP the carparking generation of the development is:

Use	Generation rate	GFA	Parking required
retail	3.5 spaces/100m <sup>2</sup> GFA	9,750	341
commercial	2.5 spaces/100m <sup>2</sup> GFA	3,250	82
library	2.0 spaces/100m <sup>2</sup> GFA	2,235	45
<b>Total</b>			<b>468</b>

The proposed total number of carparking spaces is 446. The proposal is therefore deficient 22 carparking spaces when assessed against the provisions of the Parking DCP. This deficiency is considered to be acceptable as the proposal will provide a substantial increase in parking for the entire Double Bay commercial centre. Also, it is considered that there will be an overlapping of parking demand regarding the commercial and retail uses and the likelihood of multiple purpose trips particularly associated with the library.

Part 3 of the Parking DCP deals with parking multipliers. In Double Bay the parking multiplier is 1.0 which does not change the parking required as shown above.

Part 4 deals with variations to parking rates. A variation may be allowed for mixed use developments under 4.2 if there is overlapping parking demand or complementary use of spaces with different peak parking demand times. This is considered to be relevant to this development as mentioned earlier. There are also variations which apply in some circumstances to development in Double Bay, i.e. outdoor eating areas, change of use for an existing building, where there is no increase in floor space and professional theatres. These variations are not considered to apply to this proposal.

Part 5 deals with parking area standards which have been considered by Council's Technical Services and have been found to be acceptable.

Part 6 deals with off-street loading and servicing facilities. It requires a minimum of 1 loading bay for the proposed development with which the proposal complies. Loading facilities are also covered in detail in the Double Bay Centre DCP discussed earlier.

Part 7 relates to mechanical parking installations. This development does not propose the use of mechanical parking installations.

Part 8 relates to special provisions, i.e. the location of parking areas, landscaping, signposting, drainage, design and use, monetary contributions, parking spaces for people with a disability and reservation of parking spaces. Monetary contributions have been discussed earlier in relation to s.94. Disabled parking has also been discussed in relation to Appendix 2 of the Double Bay Centre DCP. The development is otherwise considered satisfactory in terms of the provisions in Part 8.

A traffic report was submitted with the DA, *Proposed mixed use development Kiaora Lane, Double Bay traffic report*, by Halcrow dated 19/10/11 (the Halcrow report<sup>4</sup>). This report calculates the parking generation of the development by reference to the Double Bay Centre DCP. Regarding the library it notes that the DCP has no specific requirement and adopts the previous scheme's (approved in 2004) allocation of 16 parking spaces. It also calculates the retail parking requirement using the net increase in retail floor area. It does however take account of the 145 existing public parking spaces. The Halcrow report concludes that the total parking generation of the development is 466. As the development proposes 446 parking spaces there would be a deficiency of 20 parking spaces based on the methodology used by the Halcrow report. It notes that about 20 on-street parking spaces will be displaced.

The proposal is considered to be satisfactory with regard to the provisions of the Parking DCP. However, the issue of parking and traffic is further discussed under part 15 – issues, of this report.

### **13.3 Woollahra Access DCP**

The Access DCP includes the following objectives in part 1.4:

- (iii) to encourage new buildings and associated spaces to be accessible and useable by all people in the community, including people with a disability;*
- (vi) to provide adequate access for people with a disability to disabled car parking, footpaths, bus stops, bus shelters, public toilets, parks and other infrastructure and outdoor areas;*
- (vii) to provide adequate access for people with a disability, including staff, visitors and those doing business with Council at Council-owned or occupied buildings.*

Under table 1 of the Access DCP the buildings and facilities are required to be fully accessible and parking for people with a disability is to comply with AS 2890.1.

An access report was submitted with the DA (appendix R), *Accessibility review*, by Morris-Goding Consulting, dated 29/9/11 (the Access Report). The Access Report makes reference to the Access DCP. Its Executive Summary concludes:

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<sup>4</sup> The Halcrow Report was submitted with the original DA and therefore prior to the amended plans/Replacement DA which reduced the number of carparking spaces by 13.

*In general, the development has accessible paths of travel that are continuous throughout. In line with the report's recommendations, the proposed development has demonstrated an appropriate degree of accessibility. The Development Application drawings indicate that compliance with the statutory requirements, pertaining to site access, common area access and accessible sanitary facilities, can be readily achieved.*

*The recommendations in this report are associated with detailed design. These recommendations should be addressed prior to construction certificate.*

The proposed buildings have at grade access from adjoining public roads and all levels are accessible via passenger lifts. There are toilet facilities and carparking spaces that are designed for use by people with a disability.

In relation to carparking the Access Report refers to 7 retail accessible carparking bays and that the proportion of accessible carparking bays satisfies the BCA and the DDA Access Code 2010. It should be noted that 8 accessible carparking bays are proposed in total. The Access Report overstates the total number of carparking bays and the proportion of accessible bays is actually greater than that stated.

The report makes a number of recommendations. The recommendations can be accommodated into the development without major design changes. The recommendations should be included in any consent, see **condition C.1j**).

### **13.4 Waste Not DCP**

This DCP aims to facilitate sustainable waste management within the Woollahra Local Government Area in a manner consistent with the principles of ESD.

The Waste Not DCP is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

A waste management plan was submitted with the DA, *Waste management plan*, by JD McDonald, Waste Management Consultants, dated January 2010. Council's Manager-Civil Operations reviewed the plan and as a consequence the Council's letter to the applicant dated 2/2/12 requested additional information on waste generation, bin storage and the waste collection provider.

The applicant's response of 6/3/12 included an updated Waste Management Plan prepared by JD McDonald dated February 2012. Council's Manager-Civil Operations advised by email dated 20/3/12 that the only issue in relation to the updated Waste Management Plan related to the collection of waste from the retail outlets from Kiaora Lane. This issue can be addressed by a condition on any consent, see **condition I.25**.

A construction management plan was also submitted with the DA, *Construction Management Plan*, prepared by Caverstock Group dated 15/11/11. It includes proposed materials handling information consistent with the Waste Not DCP.

The proposal is considered to be satisfactory in relation to the Waste Not DCP.

## 14. APPLICABLE REGULATIONS

### 14.1 Demolition of Structures

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. This application involves the demolition of existing buildings and structures on the site. Compliance with AS 2601-2004 can be required as a condition on any consent, see **condition E.2**.

## 15. THE LIKELY IMPACTS OF THE PROPOSAL

The likely impacts of the proposal need to be considered in the context of the land use zonings which apply to the Kiaora Lands development site and surrounding land.

The WLEP stipulates the land use zoning. Under the WLEP the Kiaora Lands development site is in zone no. 3(a) – (General Business). Land to the north and land to the east and west in New South Head Road are in the Double Bay commercial area and have the same land use zoning as the Kiaora Lands site.

Land to the south and to the east and west of the Kiaora Lane part of the site are in zone no. 2(b) – (Residential “B” zone). The WLEP Development Control Table for zone no. 2(b) describes the zone as:

*The Residential "B" Zone applies to areas characterised by existing medium density residential flat buildings and areas where potential has been identified for increased medium density residential development. Floor space and height controls, contained in Part 3, set the maximum permissible density and building heights for new development. Site area and frontage controls, also contained in Part 3, specify minimum site requirements for new development.*

Because of the interface between the different land use zones the planning principle set out in *Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NDW LEC 117 (30 March 2004) needs to be considered. It states:

*‘As a matter of principle, at a zone interface as exists here, any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone. In this case residents living in the 2(b) zone must accept that a higher density and larger scale residential development can happen in the adjoining 2(c) or 2(d) zones and whilst impacts must be within reason they can nevertheless occur. Such impacts may well be greater than might be the case if adjacent development were in and complied with the requirements of the same zone. Conversely any development of this site must take into account its relationship to the 2(b) zoned lands to the east, south-east, south and south-west and the likely future character of those lands must be taken into account. Also in considering the likely future character of development on the other side of the interface it may be that the development of sites such as this may not be able to achieve the full potential otherwise indicated by applicable development standards and the like.*

Regarding the likely future character of the adjoining 2(b) zoned land the desired future character objectives under the Woollahra Residential DCP 2003 for the Manning Road precinct, within which it is located, should be noted:

*O 4.4.1 To establish a transition between the urban quality of the Double Bay commercial centre and the landscape setting and built form character of the residential precinct.*

*O 4.4.2 To reinforce the landscape character and the form and scale of the one and two storey residential character of the Double Bay valley floor.*

*O 4.4.3 To reinforce the landscape character of the streetscapes of the Double Bay valley floor.*

Under the WLEP the height control applying to the immediately adjoining 2(b) zoned land is 12m compared to the 13m control applying to adjacent portion of the Kiaora Lands site.

The development of planning controls for the Kiaora Lands site under the WLEP and the Double Bay Centre DCP was in accordance with the provisions of Part 3 of the Act and included comprehensive community consultation. During this process regard was had for the potential impact the development would have on the locality and in particular on the amenity of the properties in the adjoining 2(b) zoned land. This is evidenced by the detailed provisions in the Double Bay Centre DCP, Appendix 2, relating to edge conditions and in particular the edge conditions at the interface of the different zonings. The edge conditions include setbacks and inclined vertical planes intended to manage the amenity impacts on the neighbouring residential properties. For example, the upper levels of the Kiaora Lane building, for the most part, achieve a height of 11m with a setback of 14m at the rear of the residential Court Road properties to the south. The controls have the effect of avoiding an undue sense of enclosure, protecting solar access and reducing the impact on privacy of the neighbouring residential properties.

There are numerous provisions in the Double Bay Centre DCP aimed at controlling the impacts of noise and the potential impacts on the character of the surrounding residential area including the landscaped character referred to above in the desired future character objectives. The proposed development has been assessed against each control under the Double Bay Centre DCP earlier in this report and generally the proposal is considered to be consistent with such controls or conditions have been recommended where considered necessary to achieve consistency.

The greatest potential for the amenity of the residential properties to be adversely affected by the proposed development are considered to relate to traffic/parking and noise. These are discussed below.

### **15.1 Traffic/parking**

As indicated in part 10.1.4 – Infrastructure SEPP, of this report the provisions of cl.104(3) of the Infrastructure SEPP apply to this development. Clause 104(3) provides:

- (3) *Before determining a development application for development to which this clause applies, the consent authority must:*
  - (a) *give written notice of the application to the RTA within 7 days after the application is made, and*
  - (b) *take into consideration:*
    - (i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*
    - (ii) *the accessibility of the site concerned, including:*
      - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
      - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*



(iii) any potential traffic safety, road congestion or parking implications of the development.

The assessment of the proposal under cl.104(3) is considered in relation to the comments provided by the Roads and Maritime Services (RMS) (formerly the RTA) and the referral comments provided by Council's Manager-Engineering Services. An assessment is also made of the proposed shared zone on Kiaora Lane.

Appendix S of the SEE submitted with the DA is a traffic report, *Proposed mixed use development Kiaora Lane, Double Bay Traffic Report* dated 19/10/11 prepared by Halcrow (the Halcrow Report). Halcrow provided additional information on a number of occasions at the request of RMS and Council which are referred to later in this section of the report.

### 15.1.1 RMS submission

The Halcrow report included an analysis of the performance of signalised intersection using the SIDRA model. The results were as follows:

**Table 5.4 SIDRA Analysis Results**

Intersection	Average Delay (Second)	Level of Service
Existing Conditions		
- New South Head Rd/Kiaora Rd	38	C
- New South Head Rd/Knox St	6	A
- New South Head Rd/Manning Rd	12	A
Future Conditions		
- New South Head Rd/Kiaora Rd	50	D
- New South Head Rd/Knox St	6	A
- New South Head Rd/Manning Rd	19	B

Note: Level of service A provides good intersection operation, level of service F indicates intersection is operating over capacity while level of service D is the minimum desirable long term peak period operating condition. At signalised intersections, the average intersection delay is usually reported as the volume weighted average delay while at priority controlled intersections, the average delay for the worst movement is usually reported.

Source: SEE appendix S

In relation to this analysis the report states:

*The results from the SIDRA analysis indicate that the signalised intersections along New South Head Road would continue to operate satisfactorily in the future.*

The DA was referred to RMS for consideration by the Sydney Regional Development Advisory Committee (SRDAC) under the Infrastructure SEPP, cl.104(3)(a).

The SRDAC considered this DA at a meeting on 14/12/11. As a result of issues raised at this meeting by RMS, Halcrow provided additional information to the SRDAC by letter dated 23/12/11. The additional information related to the previous approval, traffic assessment, traffic distribution, intersection improvements, right turn queues at Manning Road, Saturday morning analysis, vehicle swept path and loss of on-street car parking. Additional information on the SIDRA modelling methodology was also provided.

RMS wrote to Halcrow on 28/2/12 advising that the electronic modelling file had been reviewed. Comments were provided to correct discrepancies discovered and resubmission of the electronic

model to RMS was sought for a final review. The comments to correct discrepancies related to the Cross Street/New South Head Road intersection (existing and future models), the Knox Street/New South Head Road intersection (existing and future models) and New South Head Road/Manning Road.

Halcrow responded by letter dated 5/3/12 to the matters raised by RMS to the effect that remodelling of intersection performance including the adjustments sought by RMS will either have no impact or will improve the results. A comparison of the SIDRA modelling is shown in the following table.

**Table 1 Comparisons of SIDRA Modelling Results**

Intersection	Original Results		RMS Requested Amendments	
	Average Delay (Second)	Level of Service	Average Delay (Second)	Level of Service
Existing Conditions				
- New South Head Rd/Kiaora Rd	38	C	29	C
- New South Head Rd/Knox St	6	A	6	A
- New South Head Rd/Manning Rd	12	A	8	A
Future Conditions				
- New South Head Rd/Kiaora Rd	50	D	30	C
- New South Head Rd/Knox St	6	A	6	A
- New South Head Rd/Manning Rd	19	B	9	B

Source: Halcrow letter 5/3/12

The level of intersection performance is shown to be acceptable although the New South Head Rd/Kiaora Road intersection will reduce from C to D and the New South Head Road/Manning Road will reduce from A to B.

The SRDAC meet on 4/4/12 to consider Halcrow's response. The outcome of this meeting was that Halcrow carry out further intersection modelling using data obtained from intersection diagnostic monitoring (IDM data), remodelling of the Kiaora Road intersection with and without an extra phase and the need to address the safety issue at the intersection of Manning Road due to the limited capacity of the dedicated right turn lane from New South Head Road.

The results of the additional modelling were considered by the SRDAC at an on-site meeting on 24/4/12. At this meeting Halcrow was asked to analyse the morning peak using a linear model (LinSig). Halcrow also presented an option to modify the westbound lanes on New South Head Road at Manning Road from 3 lanes to 2 lanes so that the right turn lane bay on New South Head Road could be extended.

Halcrow provided additional information to RMS by letter dated 3/5/12, the summary of which states:

*Our analysis indicates the additional traffic generated by the proposed development would not result in any additional detrimental traffic effects to the operation of the nearby intersections.*

*The proposal to convert one of the New South Head Road westbound lanes to allow the eastbound right turn lane into Manning to be extended have merits in that it would not only improve road capacity, but would also provide positive safety benefits. Our analysis indicates that the intersections under the proposed road changes would continue to operate with similar performance found under existing traffic demand in both peak periods. It warrants further analysis including detailed signal optimisations of the road corridor to maximise the benefits of the proposed road changes.*

*Our analysis also found that a fourth phase at the Kiaora Road intersection in the evening peak would provide additional benefits without adversely affecting the operation of the New South Head Road westbound traffic at this intersection.*

The SRDAC met on 7/5/12 to consider the information provided by Halcrow. The outcome was that Halcrow was asked to provide input into the LinSig model regarding the morning AM peak, the afternoon PM peak and pre and post queue lengths on all approaches. Halcrow provided additional information by letter dated 11/5/12, the summary of which states:

*The proposed development is intended by Woollahra Council to commence the restoration of Double Bay to its former position as one of Sydney's most prominent specialized retail precincts.*

*Our analysis indicates that the additional traffic that would be generated by the development could be satisfactorily accommodated, albeit obviously with some additional queuing on the local road system.*

*LinSig modelling indicates that the intersections of New South Head Road with Manning Road and Knox Street would continue to operate in manners similar to those that currently occur.*

*At the intersection of New South Head Road with Cross Street/Bellevue Road/Kiaora Road there are limitations on the capacity of the right turn filter movement into Bellevue and Kiaora Roads. LinSig modelling indicates that in the future morning peak the intersection would continue to operate in a similar fashion to existing traffic conditions. However, in the evening peak LinSig indicates that the eastbound right turn from New South Head Road to Kiaora Road/Bellevue Road would have extensive queuing and the overall level of service would deteriorate from D to F.*

*Further analysis using what is considered to be the more applicable SIDRA analysis program indicates that while delays to evening peak right turn movements would increase, the situation would be workable. SIDRA indicates that the intersection would operate with an acceptable level of service (LoS D) in the future under the existing three phase arrangement. SIDRA indicates that the average queue length would be about 165m which would extend slightly beyond Knox Street.*

*However, should RMS have concerns regarding the SIDRA analysis, it would be possible to introduce a fourth phase at the Kiaora Road intersection to provide more capacity for the right turn movement from New South Head Road. Our analysis finds that a fourth phase at the Kiaora Road intersection could reduce the right turn delays without seriously affecting the operation of New South Head Road westbound traffic at this intersection, but this would require some minor re-allocation of green times at this intersection. In this regard a compromise solution would be to introduce a fourth phase, but with this operating only every other traffic signal cycle in the critical morning peak period when westbound flows are heaviest on New South Head Road. The analysis of an alternating*

*fourth phase arrangement indicates that the Kiaora Road intersection would continue to operate with LoS D and traffic queues on the network, in particular would be within reasonable limits.*

*In conclusion, we note that although peak traffic conditions through Double Bay are heavy in peak periods, it would be possible to satisfactorily accommodate the additional traffic that would be generated. This is particularly the case having regard to the importance of the proposal to the revitalisation of Double Bay as one of Sydney's foremost high end shopping precincts.*

RMS wrote to Council on 16/5/12 (see **annexure 12A**) with its comments on the proposal. The comments refer to:

- **New South Head Road/Kiaora Road intersection** – the applicant suggested a revised proposal for a dedicated right turn phase (a 4<sup>th</sup> phase) in order to address additional queuing on New South Head Road for the right turn movement into Kiaora Road. RMS provides support in principle subject to a trial period of the traffic signals remaining in their existing configuration post development, subject to conditions. These include the preparation of an updated signal design plan for the intersection by the applicant for approval by RMS prior to the issue of a construction certificate and installation of a CCTV camera.
- **New South Head Road/Manning Road intersection** – the applicant to prepare and submit a civil works design to extend the right turn storage bay. The intersection to be monitored and evaluated for 12 month trial period. The proponent is to prepare a Traffic Management Plan (TMP) to investigate the potential loss of parking west of the intersection. The TMP is to include community consultation and is to be submitted to RMS and Council for approval.
- In relation to the above matters the developer is to enter into a 'Works Authorisation Deed' (WAD) with RMS
- Comments raised in the previous SRDAC letter dated 16/12/11<sup>5</sup> remain applicable.
- All road works/regulatory signposting associated with the proposed development being at no cost to RMS.

RMS's letter finishes with the following:

*RMS notes the limited capacity of the existing signalised intersection on New South Head Road to cater for further large scale development. RMS recommends Council give consideration to preparing a Local Area Traffic Management Plan to address access management issues and identify alternative strategies to actively manage traffic generated by future developments in the Double Bay precinct.*

RMS's comments are concurred with, except for items 6 and 10, and are included in the recommendation of this report as a condition of consent while an advising has been included in relation to further large scale development in Double Bay, see **condition A.5** and **advising K.26**.

Item 6 provides:

*The current loading operations for the Golden Sheaf Hotel require trucks to unload in the middle of the signalised intersection at Knox Street which is illegal. Consideration should be given to providing a loading zone in Kiaora Lane to facilitate deliveries.*

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<sup>5</sup> Council has no record of receiving a letter dated 16/12/11 from RMS. It is presumed that the comments are those contained in RMS's letter of 15/2/12 (unsigned letter received by email on 29/3/12), see **annexure 12A**. Requests to RMS to clarify this have not been successful.

Providing a loading zone in Kiaora Lane for the Golden Sheaf Hotel would conflict with the proposed shared zone. The recommendation does not include a condition for a loading zone for the Golden Sheaf Hotel. This is supported by Council's Manager-Engineering Services whose comments on the shared zone include:

*It appears from the plans that it is proposed to have on-street Loading Zones within the Shared Zone. This is not supported. The parking of heavy vehicles should not be encouraged within a highly pedestrianised area, particularly given that heavy vehicles can introduce sight distance issues.*

The Golden Sheaf Hotel does not form part of the Kiaora Lands development site and it would be inappropriate to impose conditions on its operations as part of this DA.

Item 10 provides:

*A service vehicle management plan needs to be prepared and submitted to Council for approval restricting deliveries to outside of trading hours due to the potential conflicts between cars and service vehicles.*

Restricting deliveries to non-trading times would result in deliveries for the supermarket, for example, occurring between 12am (midnight and 7am) which would cause conflict with other restrictions to protect the amenity of surrounding residential properties in terms of noise. A condition is recommended that delivery times be scheduled so as not to coincide with peak traffic periods where practicable.

Some other modifications have been made to condition A.5 to avoid duplication, i.e. the matters are covered by other conditions and to clarify when the actions required by the conditions need to be taken. In relation to the New South Head Road signalised intersections, the approvals required are prior to the issue of an occupation certificate in order to avoid the delay of construction that may otherwise occur.

### **15.1.2 Council's Manager-Engineering Services' Referral Comments**

Council's Manager-Engineering Services, after reviewing the Halcrow report and letter of 23/12/11 advised that additional information was required to enable an assessment of traffic generation and traffic impacts of the development. The additional information requested related to:

- the long stay and short stay parking rates
- carpark queuing
- the cumulative traffic generation of the Kiaora Lands and 33 Cross Street developments
- the need for the Anderson Street entry/exit
- data on the right turn movement from Kiaora Lane
- heavy vehicle numbers and routes
- the Dan Murphys loading dock turntable
- design of internal ramps
- manoeuvring room for parking spaces.

The Council wrote to the applicant on 28/1/12 requesting the additional information.

The applicant submitted additional information on 17/2/12 including a letter dated 10/2/12 from Halcrow responding to the above traffic related matters. Council's Manager-Engineering Services provided detailed comments on parking and traffic related issues by memorandum dated 18/5/12, see **annexure 2A**. In relation to parking the comments include:

*The parking is calculated as follows:*

<i>Development Component</i>	<i>DCP Parking Rate</i>	<i>Number Spaces Required by DCP</i>	<i>Number Spaces Proposed</i>
<i>Additional Retail (7,159 m<sup>2</sup>)</i>	<i>3.5 per 100 m<sup>2</sup></i>	<i>250.6</i>	<i>230</i>
<i>Additional Commercial (2,789 m<sup>2</sup>)</i>	<i>2.0 per 100 m<sup>2</sup></i>	<i>55.8</i>	<i>55</i>
<i>Library (2,234 m<sup>2</sup>)</i>	<i>2.0 per 100 m<sup>2</sup> **</i>	<i>44.7</i>	<i>16</i>
<i>Existing car parking</i>		<i>145</i>	<i>145</i>
<i>Total</i>		<i>496</i>	<i>446</i>

*\*\* The DCP does not outline a specific parking rate for libraries. It would generally seem to fall into the category of a Community Facility which has a requirement for 2 spaces per 100 m<sup>2</sup>.*

*The DCP requires a total of 496 parking spaces. The proposed development includes 446 parking spaces. There is a shortfall in the proposed parking. There are likely to be different peak periods for the various development components. Therefore, I generally concur with the applicant that the proposed parking is satisfactory.*

The provision of parking has been discussed earlier in this report in relation to s.94 contributions, the Double Bay Centre DCP and the Parking DCP. On balance the approach taken by Council's Manager-Engineering Services, which factors the parking generation of the existing development and the existing public parking, is considered to be the most practicable approach.

The quantity of parking is considered to be appropriate to satisfy the demands of the proposed development and the wider demand for public parking in the Double Bay commercial centre.

Council's Manager-Engineering Services calculates the development will generate up to an additional 456 vehicles per hour. This represents an additional 11% of net traffic generation compared to that calculated by the applicant, i.e. an additional 412 vehicles per hour. The impact of the increased traffic generated by the development is discussed in relation to intersection performance and impact on the amenity for surrounding residents.

The earlier comments by RMS on the signalised intersections on New South Head Road are supported by Council's Manager-Engineering Services who states:

*With regard to the traffic impact on New South Head Road, a State road, Council must be largely guided by the RMS. Therefore, the above RMS comments and improvements are supported.*

Regarding residential amenity Council's Manager-Engineering Services comments include:

*The current proposal includes vehicular access from Kiaora Road, Patterson Street and Anderson Street. Vehicle volumes will therefore increase on the following residential streets: Anderson Street, Court Road Kiaora Road, Manning Road and Patterson Street.*

*Council staff raised concerns about the need for an additional car park entrance in Anderson Street. The applicant has provided the following comments:*

*The future traffic volume using Anderson Street to access the car park would be relatively low – in the order of 150 vph during the busiest period. However, it would assist with the spreading of the traffic to the surrounding road network and provide flexibility for periods of extremely high peak traffic activity in the area. A particular*

*benefit of having the Anderson Street access is that it would take pressure off the right turn exit into Kiaora Road at which exiting traffic would have to give way to traffic in both directions on Kiaora Road plus right turn entries from that road.*

*In relation to reducing impacts on Anderson Street and Court Road, the RMS (RTA) guidelines suggest a road environmental capacity of 300 vph for a local residential street. Traffic volumes exceeding this road environmental capacity would result in the local neighbourhood amenity adversely affected. In this regard, the future traffic flows on the nearby Court Street during the busiest period would be less than 300 vph. Therefore the proposed development is unlikely to create any adverse impacts to Anderson Street and Court Road.*

*In addition, it is proposed that the Anderson Street entry/ exit be closed after 9.00pm each day. Thus late night conditions on Anderson Street would be better than at present.*

*The impact on the surrounding residential streets will be as follows:*

<i>Street</i>	<i>Type of Road</i>	<i>Environmental Goal</i>	<i>Environmental Maximum</i>	<i>Existing Vehicle Volumes</i>	<i>Proposed Vehicle Volumes</i>	<i>Percentage Increase Vehicle Volumes</i>
<i>Anderson Street</i>	<i>Local</i>	<i>200</i>	<i>300</i>	<i>74</i>	<i>148</i>	<i>100</i>
<i>Court Road</i>	<i>Local</i>	<i>200</i>	<i>300</i>	<i>237</i>	<i>291</i>	<i>22.8</i>
<i>Kiaora Road</i>	<i>Collector*</i>	<i>300</i>	<i>500</i>	<i>603</i>	<i>900</i>	<i>49.3</i>
<i>Manning Road</i>	<i>Collector*</i>	<i>300</i>	<i>500</i>	<i>615</i>	<i>736</i>	<i>19.7</i>
<i>Patterson Street</i>	<i>Local</i>	<i>200</i>	<i>300</i>	<i>67</i>	<i>283</i>	<i>322</i>

*\*Given the residential nature of Kiaora Road and Manning Road they should be classified as local roads. However, given their proximity to the Double Bay retail area and New South Head Road and their location within a busy inner-metropolitan area of Sydney, they already function as through collector roads.*

*The definition of the impact on residential/environmental amenity by varying levels of traffic flow is extremely complex. Perceptions of impact vary greatly from person to person. Traffic flows that one person may find perfectly acceptable may be considered excessive by another. Impact is affected by the nature of the street and the area in which it is located, its width, building setbacks, grades, etc. as well as by the speed of traffic and the mix of cars and heavy vehicles.*

*The functional classification of the street is important when determining the impact on residential/environmental amenity. The RMS' Guide to Traffic Generating Developments states that the environmental capacity performance for a collector road is a goal of 300 vehicles per hour and a maximum of 500 vehicles per hour. The RMS' Guide to Traffic Generating Developments states that the environmental capacity performance for a local road is a goal of 200 vehicles per hour and a maximum of 300 vehicles per hour.*

*It is clear from the table above that Kiaora Road and Manning Road already experience vehicle volumes that exceed the environmental capacity of the roadway. The additional traffic generated as a result of this development will therefore further erode the amenity of these streets for residents.*

*The Anderson Street car park entry and exit is likely to provide access and egress for about 150 peak hour vehicles. The impact of this entry and exit on the residents of Anderson Street and Court Road could be removed entirely by simply removing this access point. Consideration would then need to be given to queue lengths at the other car park entries (see section below).*

*Anderson Street, Court Road and Patterson Street will remain below the environmental maximum goal for local roads. However, the impact on residents is likely to be significant given it is such a large and sudden increase in vehicles due to one development, rather than a gradual increase caused by a number of smaller developments over a number of years. Therefore the impact of this increase in vehicles is more likely to be “felt” by the local residents.*

*This significant increase in traffic volumes and subsequent impact on resident amenity is considered unacceptable, unless steps are taken to ameliorate the impact. One of the means to reduce the impact of increasing vehicle volumes is to slow their speed. This can be done through traffic calming. It is therefore suggested that the following traffic management measures be implemented:*

- *Installation of a roundabout at the intersection of Manning Road and Patterson Street*
- *Installation of an “intersection” treatment at the new car park entrance in Kiaora Road, incorporating a right turn lane for southbound vehicles on Kiaora Road and a marked pedestrian crossing and refuge across the driveway access*

Council’s Manager-Engineering Services carried out a queuing analysis for the carpark entrances and concluded:

*Based on the above analysis, it is felt that the Kiaora Road entrance is inadequate to cater to the volume of vehicles which are anticipated to utilise this entrance. Modifications to this entrance should be made such that there are two boom gate entrances. It is proposed that there would still be one vehicular entrance to the car park off Kiaora Road; however it would split into two lanes within the site, with two boom gates. This will likely result in the loss of a small number of parking spaces.*

Other comments relate to the loading docks, bicycle and motorbike parking, the shared zone, community concerns (including comments on traffic/parking related objections received as a result of the DA’s public exhibition), NSW Police and BIKEast’s submission. Council’s Manager-Engineering Services recommends as follows:

*Traffic generation associated with this development will have a significant impact on the surrounding community. This impact must be ameliorated and therefore this development can only be recommended for approval if the following measures are undertaken in conjunction with the development:*

- *Design for a fourth phase and associated infrastructure at the intersection of New South Head Road/ Kiaora Road/ Bellevue Road/ Cross Street in accordance with RMS requirements*



- *Design for an extended eastbound right turn storage bay at the intersection of New South Head Road/ Manning Road in accordance with RMS requirements*
- *Installation of a roundabout at the intersection of Manning Road and Patterson Street*
- *Installation of an “intersection” treatment on Kiaora Road, at the car park and loading dock entrances*
- *Modifications to the Kiaora Road entry such that there are two internal boom gates*

Council’s Manager-Engineering Services commented on the Construction Management Plan in a memorandum dated 9/1/12, see **annexure 2B**.

These comments include the loss of public carparking during the construction phase. This is an issue that has been raised in a number of objections particularly from the operators of nearby businesses. It was also the subject of a Council resolution on 23/8/10. The Manager-Engineering Services comments include:

*It is of serious concern that it is proposed to keep the existing Woolworths open during the construction of the new Woolworths. During this time, the existing 145 public parking spaces will be unavailable. There will therefore be severe restrictions on the availability of parking for the Woolworths during this time. This demand for alternative parking will be exacerbated by up to 200 people working on the construction site. It is noted that the Cross Street car park can provide some parking relief during this time. However, this requires Woolworths customers to cross at two signalised pedestrian crossings, and an unsignalised road. This may be acceptable for customers who only purchase a bag or two of shopping. However, this is not readily practicable for people with shopping trolleys.*

.....

*From a construction management point of view, particularly with regards to pedestrian and vehicle safety and access, it would be highly preferable that the existing supermarket were closed during construction of the proposed development.*

*Notwithstanding the above, I have reviewed the submitted Development Application and I have no objection to the proposed development in terms of the proposed construction methodology.*

*I note that a builder has not been appointed for this development as yet. There are therefore some details missing from this preliminary Construction Management Plan. It is recommended that a Detailed Construction Management Plan be submitted once a builder has been appointed.*

*Should this development be recommended for approval, it is recommended that the following conditions be imposed:*

.....

- *Should the existing Woolworths remain open during construction, the applicant is to develop a trolley management system during works which may include the operation of a customer courtesy trolley system, to assist customers to their parked vehicles. It may also include a trolley collection system in the Cross Street car park and within 400m of the existing Woolworths site. The trolley management system is to be documented and submitted to Council for approval by Council’s Manager Engineering Services, prior to the issue of the Construction Certificate.*

This measure should assist the situation but there will be considerable inconvenience to existing businesses. Woolworths’ trading is likely to suffer the greatest as it is the business that most relies on the availability of convenient customer parking. A level of short term disruption is an unavoidable consequence of a development of this nature.

However, in addition to the above recommendation of Council's Manager-Engineering Services it is considered that a condition should be imposed which requires the public carpark to commence operation prior to any of the businesses in the stage 1 part of the development commencing to trade, see **condition F41**. Further, a requirement of the condition for a Construction Management Plan (see **condition D.9**) is that the Plan describe the means of managing the impacts associated with the loss of public car parking. Also, any consent should include an advising for the investigation/implementation of ways of reducing the impact of the loss of public parking during the construction phase. This may include allowing the public to use sections of the carpark as they are completed (although it is acknowledged there are practical difficulties associated with allowing public access to a construction site), making temporary arrangements in the surrounding street network to maximise the kerbside parking, see **advising K.27**.

The Manager-Engineering Services comments are generally concurred with and supported. Conditions have been included in the recommendation of this report to facilitate the recommendations, see **conditions A.5, C.1 o), 4, 31, & 40, F.31-40, I.28 & 29**.

### 15.1.3 Shared zone – Kiaora Lane

RMS's letter to Council dated 15/2/12 provides as follows in relation to the proposed shared zone:

*5. The proposed shared zone in Kiaora Lane will require approval by the Road Safety Section of RMS.*

The DA proposes that Kiaora Lane be a shared zone for the extent of the development. A shared zone is a designated section of road where vehicular and pedestrian traffic share the same road space. Drivers are restricted to a speed limit of 10km/hr and must give way to pedestrians at all times. RMS's requirements for a shared zone include:

- A shared zone is to be less than 250m in length
- A shared road environment is to be significantly changed from a normal road environment
- A shared road environment should be a self enforceable 10km/hr speed zone
- The traffic volume in a shared zoned is to be less than 300 vpd
- There are no designated pedestrian facilities within a shared zone
- A shared zone must not have a footpath
- Under the Australian Road Rules a shared zone must not have a kerb and gutter
- Speed zone signage is to be installed by the RTA in accordance with Technical Direction TD 2000/6 – Shared Zone Signs

In relation to traffic flow the Halcrow report states:

*In the future, the traffic model predicts that this section of Kiaora Lane would have a predicted flow of about 14 vph or approximately 140 vpd. Therefore, the predicted traffic flow would be less than the RTA's specified traffic volume for a shared zone.*

Halcrow provided information to RMS by e-mail dated 30/4/12 in relation to a request for approval of the proposed shared zone. RMS advised Halcrow, via its Speed Management Officer, by e-mail dated 8/5/12 that the information provided does not go into enough detail on how the shared zone criteria will be addressed. Halcrow provided additional information to RMS by e-mail also dated 8/5/12.

Council's Manager-Engineering Services provided the following comments on the proposed shared zone:

*The proposed Shared Zone in the eastern section of Kiaora Lane is supported in principle. The applicant is responsible for obtaining RMS approval and undertaking all works required to meet the RMS's conditions of approval for a Shared Zone.*

*It appears from the plans that it is proposed to have on-street Loading Zones within the Shared Zone. This is not supported. The parking of heavy vehicles should not be encouraged within a highly pedestrianised area, particularly given that heavy vehicles can introduce sight distance issues.*

Condition A.5m) requires the applicant to obtain the necessary approvals from RMS's Road Safety Section for the shared zone.

#### **15.1.4 Conclusion**

The assessment of traffic/parking has been undertaken with the benefit of information provided by the applicant's traffic consultant, Halcrow. The initial information was reviewed by Council's Manager-Engineering Services and by RMS. This resulted in Halcrow providing additional information, including intersection modelling on a number of occasions. Independent analysis was also undertaken.

In relation to the specific provisions of cl.104(3) of the Infrastructure SEPP:

- The comments of the RTA (RMS) have been provided and considered
- The efficiency of the movement of people and freight has been considered. The mix of uses in the proposed development is conducive to multi-purpose trips
- The development will be reliant on travel by car. However, Double Bay also has good public transport being on the route of 4 regular and 2 peak hour bus services between the City/Watsons Bay and the City/Bondi Junction; it is within 600m (approx.) of the Edgecliff bus rail interchange; and is within walking distance of the Double Bay ferry wharf which is on the Circular Quay/Watsons Bay service route.
- Potential traffic safety, road congestion and parking implications have been considered

The proposal is considered to be satisfactory when assessed against the provisions of cl.104(3) of the Infrastructure SEPP. It is also considered to be consistent with the objectives of cl.2.(2)(d) traffic and transport, of the WLEP, as referred to in part 11.1 of this report.

The development will have impacts on traffic and parking. Based on the information and comments provided it is considered that these impacts can be satisfactorily managed, subject to the recommended conditions and traffic measures.

#### **15.2 Noise**

A noise report was submitted as appendix L of the DA, *Noise impact assessment Kiaora Lands Redevelopment New South Head Road and Kiaora Lane Double Bay NSW* (report no. 11-1607-R1), dated November 2011 and prepared by Reverb Acoustics (the Reverb Report).

Council's Senior Environmental Health Officer provided a Referral Response on 31/1/12, see **Annexure 4**, which included comments on the Reverb Report. As a result the Council wrote to the applicant on 2/2/12 requesting additional information, including additional information on 17 noise related issues.

In response to this request a letter was received from TPG dated 6/3/12. In relation to the 17 noise related issues the letter was accompanied by:

- a letter dated 1/3/12 from Reverb Acoustics, subject *Addendum to Reverb Acoustics report 11-1605-R1 request for additional information Kiaora Lands redevelopment, Double Bay*, (Addendum – Reverb Report)
- an email dated 8/2/12 from Julian Ackad, Property Manager Woolworths Limited with information on delivery truck movements for the supermarket, Dan Murphys and Thomas Dux
- a file note from **nettletontribe** dated 14/2/12 which contains a list of Acoustic Control Measures to be undertaken in the development
- the following plans prepared by **nettletontribe**:
  - Acoustic Control Plan 3109\_SK\_563, February 2012
  - Acoustic Control – Sections 3109\_SK\_564, February 2012

Council's Senior Environmental Health Officer (EHO) considered each of the responses contained in the Addendum – Reverb Report and on 26/3/12 made the following comments and conclusions. Where necessary, the comments and conclusions are further discussed:

#### *Item 1*

The road traffic noise assessment in the acoustic report must be based on the Traffic Report prepared by Halcrow (Ref. No. CTLREAr01v5 110513.doc of 16 May 2011) and the acoustic report is to be amended accordingly.

#### EHO's Comments

*A revised road traffic noise assessment has been provided reliant upon an up to date Traffic Report (Halcrow Pty Ltd dated 19<sup>th</sup> October, 2011).*

*For truck movements, the revised report shows that there will be an anticipated total maximum of 10 truck movements per day to Dan Murphys dock and a maximum of 38 truck movements per day to the main Woolworths dock.*

*For customer vehicle movements, the Halcrow Traffic report now shows that up to 412 vehicles may visit the site each hour during peak periods, typically at opening time or on Thursday evenings and Saturday mornings, and for assessment purposes it has been assumed that 250 movements occur each hour. This equates to approximately 4000 movements during day hours (7am-10pm). Fewer movements are expected at night, with 150 vehicle movements expected per hour during busy periods and 90 during normal periods. This equates too approximately 900 movements during night hours (10pm-7am).*

*Truck and customer vehicle movements have significantly changed as previously presented in the acoustic report prepared by Reverb Acoustics titled 'Noise Impact assessment: Kiaora Lands Redevelopment, New South Head Road and Kiaora Lane, Double Bay NSW' (Report No. 11-1605-R1 and dated November 2011). A total of 28 truck movements were previously assumed compared to the revised total of 48 truck movements. Likewise, for customer vehicle movements the previous report assumed up to 250 vehicles may visit the site each hour during peak periods, typically at opening time or on Thursday evenings and Saturday mornings, and for assessment purposes it has been assumed that 150 movements occur each hour. This equates to approximately 2500 movements during day hours (7am-10pm); for night periods (10pm-7am), it was assumed that only 80 vehicle movements were expected.*

*The assessment based on the revised traffic movements assumes that a typical truck will produce a sound power of 104 dBA (as full engine power is not typically required to approach and depart the site at low speed); and cars typically produce a sound power of 92 dBA based on worst case situation of cars accelerating at full power. The report has again assumed that 60% of vehicles will pass residences along Kiaora Road and Court Road as they approach and depart the site and 40% along Manning Road and Patterson Street.*

*Based on calculations shown in Table 1 and Table 2, the noise impact from traffic movements associated with the development are shown to comply with the Road Noise Policy criterion during the day and night for residences along nearby roads:*

- ***Traffic Noise Calculations Day/Night, Kiaora Rd & Court Rd – dB(A)Leq(T)***

*Day (2400 Cars & 38 Trucks) = 55.4 dB(A)      Criteria 60 dB(A), Leq 15hr*  
*Night (540 Cars) = 49.9 dB(A)                      Criteria 55 dB(A), Leq 9hr*

- ***Traffic Noise Calculations Day/Night, Manning Rd & Patterson St – dB(A)Leq(T)***

*Day (1600 Cars & 10 Trucks) = 53.0 dB(A)      Criteria 60 dB(A), Leq 15hr*  
*Night (360 Cars) = 48.2 dB(A)                      Criteria 55 dB(A), Leq 9hr*

*Peak vehicle noise of 64 dBA (Lmax) is predicted on occasion at night, however given that the existing Lmax noise levels on the surrounding streets regularly exceed 75-80 dBA, it is expected that these infrequent peak noise would not be noticeable.*

#### **EHO's Conclusion**

*Based on the on the revised traffic movements (truck and customer vehicles) calculations by Reverb Acoustics have demonstrated compliance with the 'Road Noise Policy' (RNP) where Kiaora Road, Court Road, Manning Road and Patterson Street have been classified as a sub-arterial roads.*

#### **Further discussion**

The applicant was requested by email dated 29/3/12 to reassess the noise impact on Court Road, Anderson Street and Patterson Street on the criteria that applies to local roads as opposed to sub-arterial roads. This was because the existing and proposed traffic flows on these streets as contained in the traffic reports suggests that they are more appropriately classified as local roads. Reverb Acoustics responded by submitting an addendum to the reports dated 30/3/12. Council's Environmental Health Officer commented on this further addendum on 5/4/12 as follows:

#### ***Comments to Reverb Acoustics Response***

*Reverb Acoustics has provided the relevant noise criterion for sub-arterial roads and local roads as presented in the NSW Road Noise Policy (RNP) for traffic noise assessment purposes where Court Road, Patterson Street and Anderson Street are classified as local roads.*

*The following Table shows the relevant categories, taken from Table 3 of the NSW RNP:*

<b>Road Category</b>	<b>Type of project/land use</b>	<b>Assessment criteria – dBA</b>	
		<b>Day (7am-10pm)</b>	<b>Night (10pm -7am)</b>
Freeway/arterial/ Sub-arterial roads	Existing residences affected by additional traffic on existing roads	60 LAeq, 15hr (external)	55 LAeq, 9hr (external)
Local roads	Existing residences affected by additional traffic on existing roads	55 LAeq, 15hr (external)	50 LAeq, 9hr (external)

*The new noise criterion to be achieved for traffic movements along Court Road, Patterson Road and Anderson Street (Local Roads) is 55 LAeq (15hr) for day time and 50 LAeq (9hr) for night time. Based on the Traffic Noise Calculations Day/Night presented in the Reverb Acoustics Addendum Report 11-1605-L2, calculations demonstrate that traffic movements along Court Road, Patterson Street and Anderson Street, classified as Local Roads will comply with the noise criterion presented in Table 3 of the NSW RNP.*

*Table 3 of the report presents calculations for Patterson Street which shows that for a total of 1600 car movements and 10 truck movements during a typical day time period, predicted noise calculations to be 53 dBA, Leq 15hr which is 2 dBA below the day time assessment criteria for 'Local Roads'. During a typical night time period, for a total of 360 car movements and no truck movements, noise calculations have been predicted to be 48.2 dBA, Leq, 9hr which is 1.8 dBA below the night time assessment criteria for 'Local Roads'.*

*Table 4 of the report presents calculations for Court Road which shows that for a total of 2400 car movements and 8 truck movements during a typical day time period, predicted noise calculations to be 54.5 dBA, Leq 15hr which is 0.5 dBA below the day time assessment criteria for 'Local Roads'. During a typical night time period, for a total of 270 car movements and no truck movements, noise calculations have been predicted to be 46.9 dBA, Leq 9hr which is 3.1 dBA below the night time assessment criteria for 'Local Roads'.*

## **Conclusion**

*The report correctly states that the majority of trucks will approach and depart the loading docks via New South Head Road. The Car Park & Loading Area Management Plan indicates that Anderson Street access will be closed during the hours of 10pm through to 7am which suggests that cars will not pass through Court Road. The report has assumed that some traffic will pass through Court Road and have based calculations on an assumption that 50% of vehicles leaving the development site will still travel along Court Road at night.*

*Based on the Traffic Noise Calculations presented in Table 3 and 4 of the report, it has been demonstrated that traffic movements along Court Road and Patterson Street will comply with both the day time and night time noise criterion for 'Local Roads' as presented in Table 3 of the NSW Road Noise Policy.*

*However what the report has failed to assess as requested as part of the additional information to be forwarded to Council is a traffic noise assessment for Anderson Street compared to the 'Local Roads' noise criterion presented in Table 3 of the NSW Road Noise Policy. It is recommended that noise assessment calculations be provided to Council for Anderson Street using the Local Roads noise criterion (NSW RNP) for day time and night time periods based on predicted car and truck movements during such times; the noise assessment must provide a clear statement that traffic movements along Anderson Street is in compliance, or otherwise with the noise criterion.*

In relation to Anderson Street the applicant was requested by email dated 5/4/12 to provide the noise assessment calculations. However, it is noted that the assessment for the Court Road properties would cover the only 2 properties in Anderson Street as they are on the corner of Court Road.

*Item 2*

A delivery schedule shall be provided for all service delivery vehicles for Dan Murphy and the supermarkets including vehicle size, number of deliveries and precise time frames for the deliveries. The acoustic report is to be amended to include this information.

EHO's Comment

*An adequate delivery schedule has been provided for Dan Murphys, Thomas Dux, Woolworths and miscellaneous deliveries as follows:*

*Dan Murphys:*

*1-4 Deliveries per day with anticipated total maximum 10 truck movements per day to the dock*

*Thomas Dux:*

*3 grocery/week; 1 frozen/week and 3 fruit & vegetables/day*

*Woolworths:*

*3 grocery/day; 1 meat/day; 1 frozen/day; 2 dairy & milk/day; 1 bread/day; 3 miscellaneous/day; 4 paper bails/week; 6 refuse/week and 5 fat & bone/week with an anticipated total maximum 38 truck movements per day to the dock.*

*Miscellaneous:*

*20 deliveries per day by smaller vans and trucks.*

EHO's Conclusion

*No further information is required. It should be noted that deliveries to loading docks will only occur between the hours of 7am-10pm.*

*Item 3*

The acoustic report shall identify any service deliveries that may occur outside the recommended operating hours of the service docks, such as milk deliveries and incorporate these activities in the acoustic assessment.

EHO's Comment

*Deliveries to loading docks will only occur between the hours of 7am-10pm.*

EHO's Conclusion

*No further information is required.*

#### Item 4

The car park noise assessment in the acoustic report must be based on the Traffic Report prepared by Halcrow (Re. No. CTLREAr01v5 110513.doc of 16 May 2011) and the acoustic report is to be amended accordingly.

#### EHO's Comment

*The revised road traffic noise assessment has been based on an up to date Traffic Report (Halcrow Pty Ltd dated 19<sup>th</sup> October, 2011). Calculations demonstrate (based on 412 vehicle movements per hour or 103 vehicle movements during a 15 minute assessment period), Table 3 shows that projected noise calculations are compliant with the day and evening criteria incorporating a 1500mm acoustic screen on the south edge side of the car park with fully enclosed ramps as recommended in Section 6 of the acoustic report prepared by Reverb Acoustics titled 'Noise Impact assessment: Kiaora Lands Redevelopment, New South Head Road and Kiaora Lane, Double Bay NSW' (Report No. 11-1605-R1 and dated November 2011).*

#### EHO's Conclusion

*No further information is required.*

#### Item 5

It is considered that the Rated Background Level calculated for the car park areas is biased towards the lowest LA 90 noise levels during the entire day or evening period. Accordingly, for comparison purposes, an hourly RBLhr based on each individual one hour period across the entire monitoring period should also be calculated (based on traffic flow data for the area) to provide a more accurate representation of the background noise levels during each hourly period and the acoustic report is to be amended accordingly.

#### EHO's Comment

*Reverb Acoustics makes reference to the NSW Industrial Noise Policy (INP) as the accepted document for the assessment of environmental noise in calculation of the Rating Background Level (RBL). The RBL has correctly been used in establishing the noise criterion for the development site; Reverb Acoustics states that "we have provided a measure of conservatism by adopting the lowest RBL in the receiver locations. To apply a higher RBL based on average assessment background levels would imply higher criteria and residents may then be exposed to higher levels of noise from the development". It was only for comparison purposes that an hourly RBLhr based on each individual one hour period across the entire monitoring period was to be calculated (based on traffic flow data for the area) to only strengthen Reverb Acoustic argument for compliance with the noise criterion.*

#### EHO's Conclusion

*Reverb Acoustics provide an hourly RBLhr based on each individual one hour period across the entire monitoring period to be calculated (based on traffic flow data for the area) for comparison purposes against the presented assessment noise criteria (lowest RBL in the receiver areas). This would demonstrate if there are any times of the day/night period when the RBLhr would be exceeded. Further, can Reverb Acoustics explain if the lowest RBL would also represent the lowest RBLhr ?*



## Further discussion

The provision of an hourly RBLhr is for comparative purposes and was not intended to be used to establish road noise criteria. It is not information that is necessary for the assessment of noise impacts. The recommendation of this assessment report contains a condition that requires the applicant to submit an hourly RBLhr, see condition C.24.

### Item 6

A “Car parking Plan of Management” is to be submitted to Council complying with the requirements of control C23 of A2.5.6-Car park and loading dock design” of the Double Bay Centre Development Control Plan 2002.

#### EHO’s Comment

*Reverb Acoustics advises that a Car parking Plan of Management has been prepared and included as part of the most up to date Traffic Report prepared by Halcrow Pty Ltd dated 19<sup>th</sup> October, 2011 in accordance with the requirements of control C23 of A2.5.6 – Car park and loading dock design of the Double Bay Centre Development Control Plan 2012.*

#### EHO’s Conclusion

*No further information is required. It should be noted that the car parking plan of management may need to be amended should the car park be owned and managed by Woollahra Council.*

## Further discussion

The *Car Park and Loading Area Management Plan* submitted with the traffic report has number of noise mitigation provisions. In relation to the carpark these include the Anderson Street driveways being closed from 10pm to 7am and limitation on the use of the rooftop carparking should nuisances arise. In relation to the loading docks there are provisions for the surface mass of doors, a noise level limit on the operation of loading dock doors, the use of sound absorbent materials on the walls and ceilings and restrictions on use between 10pm and 7am.

In relation to the Anderson Street entry/exit the recommendation of this report is that they be closed from 9pm, rather than 10pm, to 7am to further protect the amenity of the residential properties in Court Road. It is also recommended that the Management Plan be amended so as to permit restrictions to be placed on the night time use of the roof top parking spaces should, once it becomes operational, unreasonable noise nuisances arise (condition F.23).

Changes to the Management Plan would require a modification of the development consent.

### Item 7

The location and design criteria of the acoustic barriers to be located on the rooftop car park are required to be included on the development application plans. The specific design specifications of the barriers are to be included in the acoustic report.

#### EHO's Comment

*Reference should be made to the Nettleton Tribe Pty Ltd design plans no. 3109\_SK\_563 and 3109\_SK\_564 which shows the location, height and construction details for acoustic barriers at the perimeter of the roof top car park. Construction materials are to be either masonry, or a masonry and transparent material (such as Plexiglass or similar) combination providing that the transparent material is a minimum of 12mm thick.*

#### EHO's Conclusion

*No further information is required.*

#### Item 8

A detailed specification of the car park floors and interconnecting ramps to preclude tyre squeal is required to be submitted in accordance with the requirements of control C27 of A2.5.6-Car park and loading dock design" of the Double Bay Centre Development Control Plan 2002.

#### EHO's Comment

*Reverb Acoustics refers to C27 of the Double Bay Centre Development Control Plan 2012 which provides for options to treat the concrete floors which are in place. Given that the concrete floors are to be constructed as part of the proposal, polished (steel float) finishes are not permitted; other forms of concrete finishing are effective in controlling tyre squeal such as broom finish, coving trowel, timber float and the like.*

#### EHO's Conclusion

*The forms of concrete finishing that are effective in controlling tyre squeal such as broom finish, coving trowel, timber float and the like are to be incorporated as part of the car park concrete floors and interconnecting ramps surface finish.*

#### Further comment

A condition is recommended regarding the concrete finish of the floors to control tyre squeal, see condition E.29.

#### Item 9

The acoustic report is to be amended to address the potential noise arising from waste service vehicles entering and leaving the development site and from the collection of waste. The assessment must include calculations based on similar size stores with respect to frequency, vehicle type and size and the type of waste streams (including recycling and grease trap collection) and the expected times of waste collection.

#### EHO's Comment

*Reverb Acoustics has provided for a revised loading dock assessment which includes all vehicles using the loading docks, including waste service vehicles which will operate only between the hours of 7am-10pm. The following information has been provided to Reverb Acoustics for waste collection:*

*Woolworths:*

*4 paper bails/week; 6 refuse/week and 5 fat & bone/week with collection 2-3 times a day in total.*

*Dan Murphys:*

*Assumed 2-3 collections a week with 1 a day in total.*

*Thomas Dux:*

*Assumed 3-4 collections a week with 1 a day in total.*

*Calculations presented in Table 4 and 5 in the report shows that potential noise associated with loading dock activities and truck movements, including waste service vehicles will comply with the day and evening noise criterion at the nearest affected residential boundaries. There is a 1 dBA exceedance shown in Table 5 during the evening period, however Reverb Acoustics recommends that waste collection is restricted during 7am-6pm.*

#### **EHO's Conclusion**

*Waste collection from all docks is to be restricted during the hours of 7am to 6pm.*

*All acoustic modifications as detailed in Section 6 of the acoustic report prepared by Reverb Acoustics titled 'Noise Impact assessment: Kiaora Lands Redevelopment, New South Head Road and Kiaora Lane, Double Bay NSW' (Report No. 11-1605-R1 and dated November 2011) are to be incorporated into the design of the development site.*

*Waste collection at the rear of businesses along Kiaora Lane will be reduced significantly given that the new buildings will provide significant shielding to residences.*

#### **Further discussion**

Conditions are recommended to restrict the hours of waste collection.

Section 6 of the Noise Report is *Summary of recommended noise control*. It contains recommended noise control for loading docks, carparks, mechanical plant and certification and construction noise and vibration control strategies. Part 6.1 *Recommended noise control-loading docks*, states at LD1 *The loading docks may operate from 7am to 10pm*. While LD2 states *Store trading hours from 7am-12am are acceptable*. The Noise Report is based on an understanding that store trading hours are 7am-12am and loading dock deliveries may occur at any time from 7am to 10pm. The Statement of Environmental Effects, part 2.3.5 *Hours of operation*, states:

*The proposed hours of operation and trade include:*

- *Woolworths supermarket:*
  - *Trading Hours: Monday to Sunday 24 hours a day*
  - *Dock Hours: Monday to Sunday 6 am – 10 pm*
- *Dan Murphy's:*
  - *Trading Hours: Monday to Sunday 7 am – 10 pm*
  - *Dock Hours: Monday to Sunday 6 am – 10 pm*

- *Thomas Dux:*
  - *Trading Hours: Monday to Sunday 9 am – 10 pm*
  - *Dock Hours: Monday to Sunday 9 am – 9 pm*
- *Library (to be operated by Council):*
  - *Trading hours are yet to be specified by Council.*
- *Public Car Park (to be operated by Council):*
  - *24 hours a day*

There are discrepancies between the Noise Report and the SEE with the Woolworth's trading hours and the loading dock operations. To ensure that the noise impacts of the proposal are not inconsistent with the Noise Report's assessment, the hours of operation of the Woolworths supermarket and the loading docks are to be in accordance with the Noise Report. See **conditions I.21 & 22.**

#### *Item 10*

The acoustic report is to be amended to address the potential noise arising from cleaning contractors working at the completed development site. The assessment must describe the type of cleaning work that would be carried out, the type of machinery to be used, the times that cleaning work is to be carried out and the areas of the development where cleaning would occur.

#### *EHO's Comment*

*Reverb Acoustics advises that cleaners for each tenancy will enter the car parks via dedicated entries and all cleaning will be conducted within the buildings; Reverb Acoustics advises that no noise will be produced in residential areas from these activities.*

#### *EHO's Conclusion*

*The cleaning of the car parks is not a tenancy control and potential noise arising from cleaning services of car parking areas should be addressed by future contractors having regard to the Double Bay Centre Development Control Plan 2012.*

#### *Item 11*

The acoustic report is to be amended to provide further discussion on the likely impact of noise from shopping trolleys. The report should consider 'containment' options in controlling trolleys leaving the site and explore alternate trolley designs to minimise potential noise impact.

#### *EHO's Comment*

*No tractors will be used for trolley collection with a coin operated system to be applied for the return of the trolleys as part of a containment option in controlling trolleys leaving the site. As all trolley bays will be located with the development site, noise arising from trolley collections outside of the development site is not envisaged to be a major issue.*

#### *EHO's Conclusion*

*No further information is required.*

### Item 12

The mechanical plant assessment within the acoustic report must assess the cumulative noise impact from all plant in operation from the Supermarket/Dan Murphys Design Kit Specification. As the noise control measures are known predicted calculations of noise emissions on nearby residential properties from the operation of all mechanical plant should be presented to determine if the noise control measures will achieve the noise criterion.

#### EHO's Comment

*Reverb Acoustics states that Table 13 in the Reverb Acoustics titled 'Noise Impact assessment: Kiaora Lands Redevelopment, New South Head Road and Kiaora Lane, Double Bay NSW' (Report No. 11-1605-R1 and dated November 2011) demonstrates the calculation procedure carried out to predict mechanical plant noise impact at a receiver. Reverb Acoustics states that this may have misinterpreted by the reader of the report; in actual fact the cumulative noise impact from all anticipated mechanical plant has been carried out (as shown in Tables 14 & 15 of the report). Predicted calculations of the cumulative noise impact of all mechanical plant at the site will be compliant with the nominated noise criterion subject to acoustic controls being incorporated into the design as recommended in the acoustic report. Upon finalisation of the plant layout, such details are to be forwarded to the acoustic consultant for approval.*

#### EHO's Conclusion

*I acknowledge the comments made by Reverb Acoustics and I am in agreement; no further information is required.*

### Item 13

The acoustic report must further consider the potential impact of the substation kiosk. In this regard the report must detail the predicted noise emissions of the substation kiosk and identify the required noise control measures that are to be installed to achieve the noise criterion.

#### EHO's Comment

*Reverb Acoustics advises that only a substation box is required on the west side of the development. It is the opinion of Reverb Acoustics that such equipment produces insignificant noise and no further analysis is required.*

#### EHO's Conclusion

*The above conclusion in relation to potential noise arising from the substation is to be confirmed and documented as part of the final acoustic certification and prior to final occupation.*

### Further discussion

**Condition F.23** requires the acoustic certification of mechanical plant and equipment, including substations.

### Item 14

The acoustic report should consider and discuss the benefits of preparing a Noise Management Plan (NMP) for the development. A NMP would set out how the site will be managed and how the recommendations of the acoustic report will be implemented to ensure that the site will be operated in a satisfactory manner with minimal impact on surrounding properties. Any NMP should include, but not be limited to the following:

- Service vehicles & waste collection vehicles including scheduling
- Car park maintenance
- Whether staff, including cleaning staff will be permitted to use the car park outside operating hours
- Loading dock operating procedures
- Hours of operation
- Cleaning
- Shopping trolleys
- Signage
- Complaints handling
- Unauthorised access.

#### EHO's Comment

*Consideration was to be given for the preparation of a Noise Management Plan (NMP) for the development site in relation to service vehicles & waste collection vehicles including scheduling; car park maintenance; whether staff, including cleaning staff will be permitted to use the car park outside operating hours; loading dock operating procedures; hours of operation; cleaning; shopping trolleys; signage; complaints handling and unauthorised access.*

#### EHO's Conclusion

*The report has adequately addressed the above issues; no further information is required.*

#### Further discussion

The Addendum – Reverb Report includes a noise management plan (NMP) for the operation of the site. A condition is recommended requiring compliance with the NMP, see **condition I.20**.

### Item 15

Part 6.5-‘Construction Noise & Vibration Control Strategies’ of the acoustic report recommends the implementation of an attended noise and vibration at the commencement of each construction process/activity that has the potential to produce excessive noise and vibration. However the report fails to nominate the noise and vibration levels that are considered excessive and would require ameliorative action. Also the report does not specify the ameliorative action that would be required to be initiated if excessive noise and vibration was encountered. Accordingly, the acoustic report is required to be amended to include such information.

### EHO's Comment

*Reverb Acoustics has confirmed that no driven piling will be undertaken during construction works; instead boring of piles will be the preferred option. Reverb Acoustics acknowledges that piling activities will significantly contribute to noise during construction activities. Typical noise levels are expected to be in the order of 70-79 dBA from such activities for a receiver at 20 metres away.*

*Reverb Acoustics acknowledges that compliance with the construction noise criteria will not occur, however noise mitigation strategies have been suggested to reduce noise impacts by as much as 10 dBA.*

### EHO's Conclusion

*It is recommended that prior to construction activities commencing at the development site that all construction noise mitigation measures shall be in place, including barriers at the perimeter of the construction site and/or around construction machinery and the selection of alternate equipment that produces less noise to negate noise emissions from such activities.*

*Attended noise and vibration monitoring is to be carried out at sensitive receivers at the commencement of each process/activity that has the potential to produce excessive noise or vibration.*

### Further discussion

Part 6.5 of the Reverb Report sets out the noise mitigation measures during the construction phase of the development. **Condition A.3** requires the work to be carried out in accordance with the Reverb Report.

### Item 16

Section 4- 'Cumulative Noise Impact Site Operation' of the acoustic report will need to be amended following the inclusion of the additional information requested above. Not all noise sources identified by Council have been assessed in the acoustic report or included in the current cumulative assessment.

### EHO's Comment

*Revised cumulative noise impacts predicted at the site have been provided by Reverb Acoustics. It should be noted that noise impacts from mechanical plant remains unchanged and that the minor change in the number of activities occurring in the car park has not changed the predicted impacts from car park activities at sensitive receivers.*

### EHO's Conclusion

*The report has adequately addressed the above issue; no further information is required.*

### Item 17

The acoustic report shall include a statement certifying that the built form of the completed development will comply with the following controls of A2.5.3- 'Built form south of Kiaora Lane' of the Double Bay Centre Development Control Plan 2002;

‘C10 All mechanical plant is to be designed on the basis that if that equipment could operate at any time of the day or night, then its noise emission component, when measured at the nearest or at any other residential property façade, must not exceed the nocturnal background level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location must not exceed the nocturnal background level by more than 5 dBA’.

Note: The background noise level is to be measured on a windless Tuesday night which is normally the quietest night of the week. The results of this measurement must not be degraded by the noise of passing traffic, or by the noise from vehicles entering or exiting the Anderson Street entry and exit. This may require the background noise level to be measured when the Anderson Street entry and exit is closed.

‘C11 The use of the premises must not give rise to noise which exceeds the relevant nocturnal background sound levels by more than 5 dBA when measured at the façade of the nearest or any other residential premises’.

#### Comment

*Reverb Acoustics advises that it is not possible to provide a statement certifying that the development will comply with A2.5.3 – Built form south of Kiaora Lane of the Double Bay Centre Development Control Plan 2002 due to the fact that the development has not been built.*

*Reverb Acoustics do state however, that based on predicted calculations and the implementation of noise control strategies and controls identified in the Reverb Acoustics titled ‘Noise Impact assessment: Kiaora Lands Redevelopment, New South Head Road and Kiaora Lane, Double Bay NSW’ (Report No. 11-1605-R1 and dated November 2011), that compliance with A2.5.3 of the DCP is possible.*

*Reverb Acoustics also state that certification is important in verifying predictions and making adjustments to noise control measures or incorporating further modifications into the design where non-compliances are identified.*

#### Conclusion

*Upon completion of the built form of the development, an acoustic assessment shall be undertaken from all identified sensitive receivers to determine compliance or otherwise with A2.5.3 – Built form south of Kiaora Lane of the Double Bay Centre Development Control Plan 2002. The results of the acoustic assessment shall be forwarded to Council including modifications into the design (noise control) where non-compliances are identified.*

#### Further discussion

A condition requiring an acoustic assessment and compliance with A2.5.3 of the DCP is recommended, see **condition F.14**.

#### 15.2.1 Conclusion

An assessment has been made of potential noise impacts of the construction and operational phases of the development and on the impact of traffic noise. A number of the submissions from the community raise concerns about noise from the development. Most concerns relate to noise associated with the use of the carpark and road noise.



The Double Bay Centre DCP contains a number of controls for the management of noise from the carpark. The formulation of these controls included input from an independent noise consultant. All of the controls are either incorporated into the design, are covered by documentation submitted with the DA and/or recommended as conditions of any consent.

The applicant has submitted additional information in response to Council requests. The additional information has, subject to appropriate conditions, been satisfactory. In particular the applicant has now made comparisons of proposed road noise levels with the accepted criteria for road noise for different road classifications including local road criteria for Court Road and Patterson Streets. The omission of these comparisons from the initial documentation was of understandable concern to the local residents. The comparisons find the proposed road noise to be acceptable and within relevant assessment criteria.

The recommended conditions require construction and operation phases of the development to comply with management plans. Conditions are recommended to reduce the hours of operation of the Woolworths supermarket from a 24 hour operation, restrict the times of use of the loading docks generally and specifically for waste collection. This will make the operation of the development consistent with the premise of the applicant's noise reports. It is also recommended that the Anderson Street carpark entry and exit be closed from 9pm to 7am rather than the proposed 10pm to 7am. This will assist in reducing the impact of traffic noise on the occupants of the residential properties in the surrounding local roads and in particular Court Road. It is further recommended that the Dan Murphy's trading hours be limited to 9am to 10pm rather than 7am to 10pm as proposed by the DA.

An issue that has been raised in a number of public submissions regarding noise and which has not been discussed elsewhere is the amphitheatre impact of noise. A number of objections are critical of the Reverb Report's focus on the noise impact at the nearest receivers on the basis that compliance with noise criteria at these locations will ensure satisfactory results at more remote locations. Submissions maintain that this part of Double Bay is a natural amphitheatre. The implication being that noise generated at the lower levels will be more prominent in distant locations, i.e. on the surrounding hillsides, than it would be in an area with different topography.

Topography is one of a number of factors which can impact on noise and it is relatively constant unlike other factors such as atmospheric conditions, wind direction, etc. Controlling the emission of noise at its source is an effective means of reducing its impact at receivers notwithstanding their distance from the source or other factors such as the amphitheatre effect. Therefore, while using the impact of noise on the nearest receivers as the basis for controlling offensive noise may not necessarily produce an accurate indication of the impact on all receivers under all conditions, it does provide a rational logic.

The Double Bay Centre DCP contains a number of controls relating to noise. Critical controls such as A2.5.3, C10, C11 and C12 and A2.5.6, C20 and C30 use words such as *noise emission components are no more than 5dB(A) above the background sound level when measured at the façade of the nearest, or **any other residential property***. There are conditions of consent which reflect these controls included in the recommendation under the conditions for the ongoing use of the premises. Therefore, should noise nuisances occur at distant receivers due to amphitheatre effects action can be taken to ensure that the terms of the consent are enforced. Any noise nuisances from the completed development would also be subject to the compliance provisions of the *Protection of the Environment Operations Act 1997*.

Subject to the relevant conditions in the recommendation of this report the noise impacts of the proposed development are considered to be satisfactory.

## 16. THE SUITABILITY OF THE SITE

The proposed use of the site conforms to the uses permitted under the WLEP zoning table for the Business General zone no. 3(a).

The land is flood prone, contains some contamination and acid sulphate soils. These conditions have been evaluated as part of this assessment. Reports have been provided with the DA from specialists regarding each of these conditions and these reports have been reviewed and commented upon by the relevant Council referral officers.

Measures have been incorporated into the development to address flooding and remediation works are proposed to deal with contamination in accordance with the relevant guidelines as provided for in a remedial action plan. Acid sulphate soils are to be treated in accordance with a management plan.

Where necessary, conditions have been recommended to enforce the measures required to resolve the site conditions.

Subject to the conditions contained in the recommendation of this report the site is considered to be suitable for the proposed development.

## 17. SUBMISSIONS

In accordance with Parts 3 and 4 of the Woollahra Advertising and Notification DCP, the application was originally notified and advertised from 7/12/11 to 15/2/12. This advertising and notification process is also consistent with cl.13 of SEPP 55 – Remediation of land, and cl.89(3)(a) of the *Environmental Planning and Assessment Regulation 2000* for *nominated integrated development*.

Notification of the DA involved 2,574 letters being sent to property owners in the locality. The proposal was advertised in the Wentworth Courier on a weekly basis for the duration of the notification and advertising period. In addition to the approval and referral bodies that required notification under planning legislation the following public agencies/utilities were also notified:

- Telstra
- Sydney Water
- Jemena
- Energy Australia
- Land and Property Management Authority

A total of 49 submissions were received. Of these 42 raised objections and 7 expressed support for the proposal.

The amended plans (replacement DA) were renotified to those people who were originally notified of the DA and to those people who made submission relating to the original DA. Seven (7) additional objections were received following notification of the amended plans. The majority of these objections relate to the redevelopment generally rather than to the specific amendments.

### 17.1 Objections

The objections to the proposal are discussed in the following table. Those marked with an asterisk (\*) denote objections received in response to the notification of the amended plans.

## Objections table

Name and property	Objection	Response
*Architectus, on behalf of Tanert Pty Limited	<p>The submission concludes that the redevelopment of Kiaora Lands represents significant opportunities for Double Bay. However, the proposed development is out of character with the locality. Under the draft East Subregional Strategy Double Bay is a Local Centre whereas the proposed supermarket will be bigger than supermarkets in Bondi Junction, a Major Centre. This is not justified in the Economic Impact Assessment submitted with the DA.</p> <p>The Architectus submission is a detailed submission which questions the manner and content of planning controls recently introduced to facilitate the redevelopment of the Kiaora Lands.</p> <p>It also raises issues of the development's non-compliance with controls relating to bulk and scale, heritage, pedestrian links, trees, pedestrian circulation, overshadowing (proposed public plaza and adjoining residential properties, inadequate parking, lack of public art and traffic.</p>	<p>This submission raises matters generally associated with the proposed redevelopment rather than issues directly related to the amended DA.</p> <p>Essentially it is beyond the scope of the DA process to revisit those controls or to achieve an outcome that is inconsistent with those controls.</p> <p>The relevant planning controls and the specific provisions of Double Bay Centre DCP have been discussed earlier in this report.</p> <p>This assessment report concludes that the proposed development is, subject to conditions, consistent with the relevant planning controls.</p>
Anita Austin 8/11 Manning Road, Double Bay	<p>Traffic implications:</p> <ul style="list-style-type: none"> <li>• Court Road "rat run"</li> <li>• Manning Road difficult to negotiate</li> </ul>	<p>Issues relating to traffic are discussed in part 15 – Impacts, of this report.</p>
Martin Border 21-25 Knox Street, 17-19 Knox Street & 401-407 New South Head Road, Double Bay	<p>In favour of development but concerned about the loss of parking from the existing Kiaora Lane car park during the long construction period.</p> <p>Council is implored to consider:</p> <ul style="list-style-type: none"> <li>• Ensure the Ritz Carlton car park is not removed until Woolworth car park is fully operational</li> <li>• Woolworths maintain some parking in Kiaora Lane during construction</li> <li>• Creating some reserved car spaces at the Cross Street car park</li> </ul>	<p>Issues relating to traffic are discussed in part 15 – Impacts, of this report.</p>
Alex Bosansky and Kerry Klemm Halo Hair Salon Suite 4 Lingate House 409-411 New South Head Road, Double Bay	<p>Signage and loss of leafy aspect.</p>	<p>The plans show a window sign that is partly off-set from the objector's property. Also, the landscape plan provides for a tree to be planted in Kiaora Ln directly opposite the salon.</p> <p>The outlook from the salon will change significantly with the removal of existing established trees in Kiaora Lane and the introduction of a</p>

		building on the existing 'undeveloped' carpark. However, the impacts are not considered to be undue.
Alex Brown 2/11 Manning Road Double Bay	Excited about the development and hopes it will re-invigorate the suburb.  Mainly concerned with traffic impact on Manning Road. Increased noise, lights and safety hazard.	Issues relating to noise and traffic are discussed in part 15 – Impacts, of this report.  11 Manning Road is located opposite the intersection of Patterson Street. It has garages at ground level on the street front and the lower level units are elevated in relation to the street. Allowing for the grade in Patterson Street, the impact of headlight glare is likely to be minimal.
Patricia and Gary Burg 21 Court Road Double Bay	They believe the development will ultimately improve the neighbourhood. However, are concerned about potential negatives and support Bruce Forster's comments	Their property is on the south side of Court Road, near the corner of Kiaora Road.  Refer to the response to Bruce Forster's objection.
*Econlegal, on behalf of George, Paul and Vivienne Coubmis 453-457 New South Head Road Double Bay	Impact on the physical appearance, structural integrity of the building and the economic and financial effects (long term tenants intend to vacate). The submission also states: <i>Please be on notice that we reserve all existing and future legal rights on behalf of our clients.</i>	This submission raises no issues directly related to the amended DA.  453-457 New South Head Road is to the east of the existing Woolworths supermarket (i.e. the 'Kidzone' building).  The setting of the appearance of that building will be enhanced by the replacement of the existing façade of the Woolworth building that lacks architectural merit and by the substantial upgrading of Kiaora Lane.  The application, if approved, will be conditioned to require the work to be carried out with regard to the structural integrity of surrounding properties and structures, including the preparation of dilapidation reports.  The economic and financial effects of the development on the business centre are considered to be positive overall.
Robin Edwards 1/8 Kiaora Road Double Bay	Objections relate to noise, i.e. Kiaora Road is a local road: construction noise and 24 hour operation; traffic, i.e. traffic report is based on only 1 day assessment; and construction management, i.e. location of workers facilities.	8 Kiaora Road is on the western side of the street. Its north side and western rear boundaries abut the development site.  Noise and traffic issues are discussed in part 15 – Impacts, of this report.  The Construction Management Plan shows the site accommodation occupying the southern part of the site to the west of Anderson Street and not immediately adjacent to 8 Kiaora Road.

<p>*Tanya Excell 4/158 Bellevue Hill Road Bellevue Hill</p>	<p>The shade cover to the roof should be in a neutral colour.</p> <p>It is suggested that the roof should be planted with vegetation. Vegetated roofs have many advantages, i.e. stormwater, air filter, noise proofing and visual.</p>	<p>The shade structure will be a light beige colour which is considered to be neutral. A sample was provided by the applicant. A condition is recommended regarding reflectivity (see <b>condition D.22</b>) otherwise the material is considered to be satisfactory.</p> <p>Whereas it is accepted that vegetated roofs have certain environmental qualities, changing the design is a matter for the applicant to consider. The structure is light-weight changing the design to accommodate a vegetated roof would require a substantial redesign/change of materials.</p>
<p>Alex Feher Royal Arcade New South Head Road Double Bay Feherco Pty Ltd t/a Quietspace</p>	<p>Loss of public parking during construction for small businesses.</p>	<p>The Royal Arcade backs onto the northern side of Kiaora Lane.</p> <p>Issues relating to parking are discussed in part 15 – Impacts, of this report.</p>
<p>Bruce Forster, Jan Forster, Kate Forster and Michael Walshe 1 and 2/ 14-16 Court Road Double Bay</p>	<p>Compliments the Council and Woolworths on changes particularly on the southern boundary.</p> <p>They express concern regarding:</p> <ul style="list-style-type: none"> <li>the acoustic report, i.e. focus on closest receivers, classification of roads as sub-arterial, construction time to 6pm rather than 5pm, daytime noise levels being given as 7am to 10pm is excessive and should be 7am to 7pm, acoustic barriers are not proposed on the western side, the following comments in the acoustic report:</li> </ul> <p><i>The site is located in the CBD and current residential neighbours have chosen to live in this location knowing they would be exposed to noise from nearby commercial businesses and more than likely most businesses would have existed when they purchased their property. They have therefore chosen to expose themselves to occasional periods of high noise, and would be aware that this proposal will be less intrusive than the existing shopping centre and car parks, under the improved situation. (p.33);</i></p> <ul style="list-style-type: none"> <li>24 hour trading, i.e. Anderson Street should only be an exit;</li> <li>assurance that the southern wall at ground floor and 1<sup>st</sup> floor will not have openings, shutters, etc. opening to the south and adequate soundproofing will be installed;</li> </ul>	<p>14-16 Court Road is on the northern side of the street. Its rear boundary forms part of the boundary with the development site. It is occupied by a 3 storey contemporary apartment building.</p> <p>Issues relating to traffic and noise are discussed in part 15 – Issues, of this report.</p> <p>The proposal does not include openings on the southern side of the building. However, an opening is recommended to the 1<sup>st</sup> floor supermarket in the vicinity of the Anderson Street entry/exit point. This is discussed earlier in the report in connection with <i>Double Bay Centre DCP</i>, A2.3.2.3.</p> <p>The roof level shade structures are in excess of 30m from the building at 14-16 Court Road and vary in height from approximately 2.8m to 3.8m. The floor of the roof top carpark is higher than the upper floor of the objector's property and the perimeter wall is a further 2m higher. It is likely that a small portion of the closest shade structure may be visible by a person standing on the upper level of 14-16 Court Road. Considering the distance to the shade structures and the difference in levels as related to the objector's property, they are not considered to represent an unreasonable visual impact.</p>

	<ul style="list-style-type: none"> <li>visual impact of shade structures on the rooftop carpark;</li> <li>construction management plan, i.e. the location of a work zone at the rear of their property, main crane location option 2 should not be used; and</li> <li>air pollution from the increased level of traffic.</li> </ul>	<p>The construction management plan (CMP) shows different crane location options for staged or consecutive construction. The staged construction location for stage 1 shows the crane slew over 14-16 Court Road. The CMP provides for slewing rights to be negotiated with property owners. This is considered to be a matter between the building contractors and the individual property owners.</p> <p>Exhaust from vehicles using the rooftop carpark will discharge directly into the atmosphere. Exhaust from vehicles using the street network is policed by the Environment Protection Authority. Exhaust ventilation from the ground floor carpark is conditioned to comply with AS1668.2-1991, see <b>condition F.16</b>.</p>
Anthony Gow-Gates 14-16 Court Road Double Bay	<p>Appreciative of positive changes which have been made.</p> <p>Expresses concern regarding:</p> <ul style="list-style-type: none"> <li>acoustic report, i.e. 24 hour operation, appropriate noise levels and impact, acoustic noise barriers and the report's p.33 comment (see Bruce Forster's objection).</li> <li>Air pollution</li> <li>Design</li> </ul>	<p>No. 14-16 Court Road is on the northern side of the street. Its rear boundary forms part of the boundary with the development site. It is occupied by a 3 storey contemporary apartment building.</p> <p>Issues relating to noise are discussed in part 15 – Impacts, of this report.</p> <p>Regarding air pollution, see comments in relation to Bruce Forster's objection.</p> <p>The Double Bay Centre DCP contains numerous building design related controls. The Council also engaged an independent urban design consultant, Hassell, to comment on design. A number of changes were made by the applicant in response to the matters raised in the urban design review provided by Hassell. These have been discussed earlier in this report.</p> <p>The proposed design is considered to be consistent with the relevant provisions of the Double Bay Centre DCP and with the comments in the independent urban design review.</p>
A I Gregory 26 Glendon Road Double Bay	Objects to traffic and parking impacts.	<p>No. 26 Glendon Road backs onto Kiaora Road to the south of Forrest Road.</p> <p>Traffic and parking impacts are discussed in part 15 – Impacts, of this report.</p>
Susan Hill Susan Hill + Associates Lawyers Pty Ltd On behalf of Mr Bablis, owner 12 Court Road, Double Bay	The submission endorses the opinions expressed by Mr Shiels (Mr Shiels opinions are commented upon separately in this objections table). It also comments on:	<p>No. 12 Court Road is an older style RFB located on the southern corner with Anderson Street.</p> <p>See comments on Mr Shiels' submission.</p>

	<ul style="list-style-type: none"> <li>Incompatible use, i.e. changes to the existing residential setting</li> </ul>	<p>The change in residential character is consistent with the planning controls which now apply to the site. Those controls include desired future character controls under the Double Bay Centre DCP which have been discussed earlier.</p> <p>The impacts on the existing residential character are considered acceptable given the current planning context.</p>
<p>Susan Hill Susan Hill + Associates Lawyers Pty Ltd On behalf of Bablis Investments, owner 4-8 Patterson Street, Double Bay</p>	<p>The submission endorses the opinions expressed by Mr Shiels (Mr Shiels opinions are commented upon separately in this objections table). It also comments on:</p> <ul style="list-style-type: none"> <li>Incompatible use, i.e. changes to the existing residential setting</li> </ul> <p>It also maintains that the DA should be refused or the zoning of 4-8 Patterson Street should be rezoned.</p>	<p>No. 4-8 Patterson Street is on the southern side of the street. It presently comprises 3 separate freestanding dwellings. The eastern most of the properties, 4 Patterson Street, will abut the development site.</p> <p>Consent was granted for the redevelopment of these properties for the purpose of a 3 storey residential development comprising 7 x 3 bedroom terrace style dwellings and basement carparking for 14 vehicles (DA734/2006). This development has not been carried out but as it was approved in December 2007 it is a valid consent until December this year.</p> <p>See comments on Mr Shiels' submission.</p> <p>The change in residential character is consistent with the planning controls which now apply to the site. Those controls include desired future character controls under the Double Bay Centre DCP which have been discussed earlier.</p> <p>The impacts on the existing residential character are considered acceptable given the current planning context.</p> <p>Refusal of the DA could not be justified and rezoning of 4-8 Patterson Street is beyond the scope of the DA process.</p>
<p>Xenia Hone 4/91 Wolseley Road Point Piper</p>	<p>Preservation of plane trees</p>	<p>Existing London Plane trees, which are a characteristic of this part of Double Bay, are to be retained where they are outside the building envelope and access driveways.</p> <p>One of the London Plane trees included in the Double Bay Centre DCP as being retained is proposed for removal. This tree is located in the proposed driveway of the carpark entry off Patterson Street.</p>

		<p>Removal of this tree is supported by Council's Tree Officer. A replacement London Plane tree is to be planted in close proximity.</p> <p>The preservation of the London Plane trees is considered to be satisfactory in the context of the planning controls which apply to the site.</p>
Dr Ivor Jacobson Suite 10, Lingate House 409 New South Head Road Double Bay	Loss of parking during construction on the existing carpark.	<p>Lingate House is an existing retail/commercial premises which backs onto Kiaora Lane.</p> <p>Parking issues are discussed in part 15 – Issues, of this report.</p>
Alexandra Joel 6 Court Road Double Bay	<p>The following objections are raised:</p> <ul style="list-style-type: none"> <li>Acoustic report, i.e. comments on p.33 (see earlier quotes), ambient noise criteria, road classification, previous complaints re: reverberation caused by heavy vehicles, "daytime" noise levels to 10pm (should be 6pm), 24 hour operation, and no openings on the south elevation</li> <li>Traffic, i.e. traffic report is based on limited surveys, existing intersection congestion, the Court Road carpark entry/exit</li> <li>Construction management plan, i.e. Court Road is unsuitable for truck use, location of workers facilities</li> <li>Set back (buffer zone), i.e. creation of an easement for residents and, security fencing</li> <li>Landscaping, i.e. planting of the setback area occur immediately after demolition and, tree 63 be retained</li> <li>Design, i.e. a sample board of materials is required</li> </ul>	<p>No. 6 Court Road is the 3<sup>rd</sup> property to the west of the intersection of Anderson Street. It is occupied by a 2 storey residential building.</p> <p>Issues relating to acoustics and traffic are discussed in part 15 – Impacts, of this report.</p> <p>The creation of an easement over the buffer zone is not part of this DA and would need to be negotiated by the relevant parties.</p> <p>The plans provide for the retention of existing boundary fences where the rear of the Court Road properties back onto the development site.</p> <p>Demolition of dwelling at the rear of 6 Court Road will be one of the first works undertaken. The practicability of landscaping this area at an early stage would be problematic because of the impact of long term construction that will be taking place in close proximity.</p> <p>Tree 63 is required by conditions recommended by Council's Tree Officer to be retained.</p> <p>Sample boards were submitted with the DA. The Council engaged an independent urban design review of the development that was carried out by Hassell. That review did not raise issue with the quality of materials to be used on the southern elevation.</p>
Mr R Kausae PO Box 1323 Double Bay	<p>Requests that the DA be rejected for reasons related to:</p> <ul style="list-style-type: none"> <li>Little or no consideration for local residents, i.e. loss of values, traffic pollution, excessive parking, closure of library for Woolworths' greed</li> <li>Loss of value for Kiaora Road property owners</li> </ul>	<p>Loss of property values is not a relevant matter for consideration in the assessment of a DA.</p> <p>Traffic, parking and noise is discussed in part 15 – Impacts, of this report.</p> <p>Above ground parking is provided for in the recently introduced planning</p>



	<ul style="list-style-type: none"> <li>• Carparking must be underground with entry/exit and loading from/to Kiaora Lane</li> <li>• Noise from 24 hour loading dock operation</li> <li>• Flooding</li> <li>• Traffic management redirects traffic to Kiaora Road</li> <li>• Introduction of Dan Murphys liquor store, i.e. there are currently too many liquor outlets in Double Bay, alcohol consumption is a problem and efforts need to be made to discourage exploiters like Woolworths preying on our young</li> <li>• Development needs to be scaled down</li> </ul>	<p>controls for development of the Kiaora Lands. Underground parking would create other issues for this flood prone site.</p> <p>The planning controls focus on the developing Kiaora Lane as a pedestrian friendly public space. It would be inappropriate for the DA process to result in a planning outcome that was inconsistent with the strategic planning controls.</p> <p>The Dan Murphys liquor store will require licensing under the Liquor Act. A social impact statement as required by the Liquor Act will need to be prepared and considered as part of that process. The granting of development consent is also a part of that process.</p> <p>The scale of development is consistent with the density controls under the WLEP.</p>
Dr A Kausae PO Box 1323 Double Bay	Refer to the objections from Mr R Kausae.	Refer to the earlier comments in relation to Mr R Kausae's objections.
Miss N Kausae PO Box 1323 Double Bay	Refer to the objections from Mr R Kausae.	Refer to the earlier comments in relation to Mr R Kausae's objections.
*R. Kausae PO Box 1323 Double Bay	<p>Expresses concern about alteration to the spelling of Kausae.</p> <p>Reiterates matters raised in the previous objection.</p>	<p>This submission raises no issues directly related to the amended DA.</p> <p>The spelling of Kauase was an administrative error which has since been corrected.</p> <p>Refer to earlier comments in relation to previous objections.</p>
Eliza Lamens 15a Manning Road Double Bay	<p>Main concern is with traffic access and the fact that Patterson Street will be the main ingress and egress point for vehicles.</p> <p>Consideration of alternatives, i.e. Kiaora Road should be the major access point as its wider, mixed use developments, proximity of the open stormwater channel and current traffic issues with Manning Road.</p> <p>The development will result in Patterson Street's environmental road capacity nearing the RTA's maximum before pedestrian amenity starts to deteriorate.</p> <p>Existing problems at the Manning Road/ Patterson Street intersection will become worse.</p>	<p>No. 15a Manning Road is on the western side of the street. Between the intersections of Patterson Street and Court Road. It is occupied by a part 3 storey residential building that is elevated in relation to the street and has garaging at the street frontage.</p> <p>Traffic and noise issues are discussed in part 15 – Impacts, of this report.</p> <p>The mid-block location of 15a Manning Road and the elevation of the existing building mean that headlight glare from vehicles turning into Manning Road from Patterson Street and Court Road are unlikely to be a problem.</p>

	<p>The Halcrow report does not factor in the frequency of 'U'-turns in Manning Road due to turning restrictions off New South Head Road.</p> <p>Noise at the Manning Road/Patterson Street intersection as a result of increased traffic.</p> <p>Head light intrusion from vehicles exiting Patterson Street at night.</p>	
*Catriona Lawson 125/177 Bellevue Hill Road Double Bay	The reflectivity of the roof covering.	The recommendation of this report includes a condition regarding the reflectivity of the roof covering material, see <b>condition C.22</b> .
Dean Letcher 3/4 Manning Road and 6 Manning Road Double Bay (also on behalf of 1/4 Manning Road and 2/4 Manning Road)	Concerned about heavy vehicle movements will damage their properties. Any approval should be conditional upon dilapidation reports being carried out.	No. 4 & 6 Manning Road are on the eastern side of the street between Kiaora Lane and Patterson Street. A condition requiring a dilapidation reports on surrounding properties, including 4 & 6 Patterson Street, is recommended, see <b>condition D.5</b> .
Richard Manning	Supports the development but is concerned with semi-trailer movements associated with the Dan Murphys loading dock.	Semi-trailers will not use the Dan Murphys loading dock. Servicing will be by rigid trucks. The loading dock arrangements will not require trucks to use Forrest Road.
Philip Mason President DBRA On behalf of the Double Bay Residents Association (DBRA)	<p>DBRA supports the overall concept. However, there are some significant concerns to be addressed:</p> <ul style="list-style-type: none"> <li>Design outcome, i.e. the recommendations of Council's Urban Designer that "an expert design review panel is set up" is supported</li> <li>Acoustics, i.e. acoustic report's statement p.33 (quoted earlier), confirmation that the ground floor carpark will be fully enclosed, the adopted noise level criteria, acoustic report uses "nearest receivers" and not other residents in the area which is a natural amphitheatre, limitation of acoustic barriers around the rooftop carpark, classification of roads, reverberation impacts of construction vehicles, "daytime noise levels" extending to 10pm (should be 6pm), acoustic report is based on different trading hours than the SEE (7am to 12am as opposed to 24 hour trading), and measures to be taken to deal with noise (e.g. access to the roof top carpark being closed at 10pm)</li> <li>Traffic, i.e. Council has not appointed an independent traffic consultant, limited surveys to inform the traffic report,</li> </ul>	<p>The Double Bay Centre DCP includes numerous urban design controls. Council also engaged an urban design consultant, Hassell, to review the development. Generally the proposal is consistent with the controls under the Double Bay Centre DCP or conditions are recommended to achieve consistency. The applicant has responded to the Hassell review by incorporating specific design improvements.</p> <p>Acoustic and traffic issues are discussed in part 15 – Impacts, of this report.</p> <p>The matters relating to the setback area have been discussed in relation to earlier objections, see comments in relation to Alexandra Joel's objections.</p> <p>An independent traffic consultant has not been appointed. However, the proposal has been considered by the Sydney Regional Development Advisory Committee. It required the applicant to carry out intersection modelling on a number of occasions.. Council's Development Engineer requested additional information regarding the applicant's Traffic Report. A review of the traffic information provided by the applicant</p>

	<p>intersection performance will be downgraded, the impact of the Anderson Street carpark entry/exit and the possibility to preserve trees</p> <ul style="list-style-type: none"> <li>• Construction management plan (CMP), i.e. a detailed and comprehensive CMP has not been provided, proposed use of Court Road is excessive, Court Road should not be used by heavy vehicles (vibration issues), proposed working hours should be those applicable to residential areas, location of workers sheds, and precautions for the removal of asbestos</li> <li>• Set back area (or Buffer Zone), i.e. possible creation of an easement, and security</li> <li>• Landscaping, i.e. tree planting of the buffer commence at the earliest possible time</li> </ul>	<p>was undertaken by Council's Manager-Engineering Services.</p> <p>The <i>Remediation Action Plan</i> by Douglas Partners submitted with the DA contains contingencies for handling asbestos which may be in the ground. The <i>Hazardous materials survey report</i>, by McNally Management Pty Ltd, confirms asbestos in existing buildings to be demolished. It recommends removal in accordance with the <i>Occupational and safety regulations, 2001</i> and Workplace Australia's <i>Asbestos Code of Practice, 1988</i>. These precautions are considered to be appropriate.</p>
Tony Moody, Moody and Doyle, on behalf of DBRA	<p>Raises the following points for consideration:</p> <ul style="list-style-type: none"> <li>• Height and FSR breaches, i.e. breaches are supportable provided they only relate to the proposed library</li> <li>• Compliance with amendment no. 3, i.e. full compliance should be achieved</li> <li>• Acoustic impact, i.e. these are the same matters raised by Bruce Forster (see the specific matters referred to in relation to his objection)</li> <li>• Traffic, access and parking, i.e. limit of surveys, minor deficiency of parking supply, CMP is not assessed in any meaningful manner, downgrade of the level of performance of intersections, and recommends that Council appoint an independent traffic consultant</li> <li>• Heritage and urban design, i.e. concerns raised by Council's Urban Designer in the preDA minutes, and loss of trees</li> <li>• Drainage, i.e. whether the minimum freeboard recommended by Council's Drainage Engineer is reflected in the plans</li> </ul>	<p>Issues of traffic, parking and noise are discussed in part 15 – Issues, of this report.</p> <p>Breaches of the statutory controls under the WLEP have been assessed in relation to the applicant's SEPP 1 objections. These relate to the height controls for both the New South Head Road and Kiaora Lane buildings.</p> <p>The provisions of the Double Bay Centre DCP have been assessed, see the Double Bay Centre DCP compliance table in this report. The development is considered to be consistent with the DCP's controls subject to specific conditions which have been included in the recommendation of this report.</p> <p>Refer to the earlier comments in relation to the RBRA's objections regarding urban design. The impact on trees is the subject of a referral comment by Council's Trees Officer and his recommendations have been included in this report's recommendation, see annexure 3.</p> <p>The design levels for drainage/flooding have been confirmed by Council's Drainage Engineer as being satisfactory subject to conditions that are included in this report's recommendation, see annexure 2.</p>
Clover Moore, Member for Sydney	Concerns of constituents relating to the Council's Bike Strategy 2009.	These concerns are discussed in the Double Bay DCP compliance table in this report. A2.5.6, C5.

		The recommendation of this report includes an advising regarding the incorporation of end-of-ride facilities into the development, see <b>advising K24.</b> .
Marc Newson 6/13 Manning Road Double Bay	Refer to objection from 1/13 Manning Road.	Refer to comments in relation to the objection from 1/13 Manning Road.
Peter O'Donnell Stephen Krulis real estate consultants  Geoff Baker Director Urban Design, DesignInc Sydney	<p>This objection makes reference to:</p> <ul style="list-style-type: none"> <li>Limited uses, i.e. the rezoned land allows mixed-use development but no residential is proposed</li> <li>Diminishment of the public realm, i.e. closure of public streets</li> <li>Excessive scale, i.e. the supermarket building, and horizontal scale</li> <li>Loading dock on Kiaora Road, i.e. the size of the dock and the vehicles using it are not compatible with the street</li> </ul>	<p>These concerns essentially relate to the strategic plans for the site, i.e. the WLEP amendment no. 67 and the Double Bay Centre DCP amendment no. 3.</p> <p>The changes to the strategic plans are now in effect having gone through the rigorous processes under part 3 of the Act, including extensive public consultation.</p> <p>The proposed development, as recommended by this report, is generally consistent with the provisions of the relevant strategic plans.</p> <p>It would be inappropriate for the DA process to produce a planning outcome that was inconsistent with the relevant strategic plans.</p>
Patricia Oswald Marc Newson 1/13 Manning Road Double Bay	<p>Raises the following concerns that the DA documentation does not address:</p> <ul style="list-style-type: none"> <li>Patterson Street's environmental road capacity, i.e. how will Patterson Street's road capacity not exceed the RTA's environmental capacity of 300vph given the Halcrow report's forecast of 283vph?</li> <li>Accidents at the Patterson Street/Manning Road intersection, i.e. the increased traffic volume will increase the accident rate. Suggests making Patterson Street one-way and relocate the Manning Road pedestrian crossing</li> <li>Manning Road is a 'U' turn for New South Head Road residents, i.e. Patterson Street, Kiaora Lane and the driveways of properties in Manning Road are used for 'U' turning because of turning restrictions in New South Head Road – the Halcrow report would not have factored this. Suggests a roundabout be installed</li> <li>Noise intrusion from the Patterson Street/Manning Road intersection, i.e. increased vehicle activity will increase</li> </ul>	<p>No. 13 Manning Road is located on the western side of the street opposite the intersection of Patterson Street. It is occupied by an older style 3 storey RFB, the ground floor of which is elevated in relation to the street with garaging at the street frontage.</p> <p>Issues relating to traffic, parking and noise are discussed in part 15 – Impacts, of this report.</p> <p>Headlight glare is not considered to present an unacceptable nuisance given the elevated nature of the flats within the building.</p>

	<p>noise. Suggests compensation for upgrading windows and that Council should be sympathetic to allowing garages at the front of 13 Manning Road</p> <ul style="list-style-type: none"> <li>• Headlight intrusion from vehicles exiting Patterson Street at night</li> <li>• Loss of long and short term parking on Patterson Street. Suggest that residents of 13 Manning Road without parking should be offered access to long term parking in the development.</li> </ul>	
<p>Patricia Oswald Marc Newson 3/13 Manning Road</p>	<p>Refer to objection from 1/13 Manning Road.</p>	<p>Refer to comments in relation to the objection from 1/13 Manning Road.</p>
<p>*Johan Polhem 11/11 Patterson Street Double Bay</p>	<p>Parking</p>	<p>No. 11 Patterson Street adjoins to the west of the development site.</p> <p>This submission raises no issues directly related to the amended DA.</p> <p>Refer to part 15 – Impacts, of this report.</p>
<p>*V Rex 40 Rembrandt Drive East Willoughby</p>	<p>Advises that:</p> <ul style="list-style-type: none"> <li>• there are shops for lease in the entry corridor</li> <li>• shops have been vacant for as much as 20 months</li> <li>• there are too many shops and there should be no more</li> <li>• the entry corridor needs to have an image of vibrancy and vitality</li> <li>• the proposal is insular and detached from the entry corridor</li> <li>• under the proposal the entry corridor will further suffer</li> </ul>	<p>This submission does not raise issue directly related to the amended plans.</p> <p>The objectives for development Kiaora Lands site, as stated in the Double Bay Centre DCP, A2.2, include:</p> <ul style="list-style-type: none"> <li>• <i>to protect and enhance the commercial role of Double Bay Centre both locally and generally throughout Metropolitan Sydney</i></li> <li>• <i>to provide a catalyst for increased business activity and private sector development in Double Bay</i></li> </ul> <p>The proposal is considered to be generally consistent with the planning controls that are intended to achieve these objectives. As such it is considered that the proposal will make a positive contribution to the overall business vitality of the Double Bay commercial precinct.</p>
<p>Gary A Shiels, GSA Planning On behalf of Bablis Investments 12 Court Road Double Bay</p>	<p>The redevelopment will have an unreasonable impact on their client's property for the following reasons:</p> <ul style="list-style-type: none"> <li>• Impact on existing residential character of Anderson Street</li> <li>• Traffic and safety impacts</li> <li>• Amenity impacts, i.e. increased traffic and outlook of driveways will affect land values</li> </ul>	<p>Also refer to the submission from Susan Hill + Associates.</p> <p>No. 12 Court Road is a 2 storey older style RFB on the eastern corner of Anderson Street. The rear boundary abuts the development site.</p> <p>The impact on the character of Anderson Street is considered to be consistent with the desired future character objectives as contained in the Double Bay Centre DCP, A.2.3.2.3 as has been discussed</p>

		<p>earlier in this report, refer to the Double Bay Centre DCP assessment table.</p> <p>Traffic issues are discussed in part 15 – Impacts, of this report.</p>
<p>Gary A Shiels, GSA Planning On behalf of Bablis Investments 4-8 Patterson Street Double Bay</p>	<p>The proposal is unreasonable and should be refused. Alternatively Council is requested to rezone their client's property to 3(a).</p> <p>The redevelopment will have unreasonable impacts on their client's property for the following reasons:</p> <ul style="list-style-type: none"> <li>• Impact on existing residential character of our client's property in Patterson Street</li> <li>• Impact on existing and approved development on our client's site</li> <li>• Traffic and safety impacts</li> <li>• Amenity impacts</li> </ul>	<p>Also refer to the submission from Susan Hill + Associates.</p> <p>No. 4-8 Patterson Street is on the southern side of the street and is occupied by 3 free standing dwellings. 4 Patterson Street's eastern side boundary abuts the development site.</p> <p>The rezoning of land is not a matter which can be considered as part of a DA. The owner would need to make a formal approach to Council to consider changing the zoning under part 3 of the Act.</p> <p>The impact on the character of Patterson Street is considered to be consistent with the desired future character objectives as contained in the Double Bay Centre DCP, A.2.3.2.2 as has been discussed earlier in this report, refer to the Double Bay Centre DCP assessment table.</p>
<p>Dana Shimmer</p>	<p>Questions whether construction will result in the closure of Manning Road or New South Head Road at any stage and noise levels.</p>	<p>The impacts of traffic and noise are discussed in part 15 – Impacts, of this report.</p>
<p>Ms Nizza Siano 16 Holland Road Bellevue Hill</p>	<p>This objection raises the same matters as the objection from the RBRA.</p>	<p>See earlier comments in relation to the RBRA objections.</p>
<p>Mark Silcocks and Dale McCarthy 19 Court Road Double Bay</p>	<p>Compliments the Council and Woolworths on changes particularly on the southern boundary and feel that overall the development is going to have a very positive impact.</p> <p>Their only objection is to proposed traffic changes. The change of Court Road from a local road to a sub-arterial road (DA traffic and acoustic reports differ on its classification). Concern is expressed about the following comments in the acoustic report: <i>The site is located in the CBD and current residential neighbours have chosen to live in this location knowing they would be exposed to noise from nearby commercial businesses and more than likely most businesses would have existed when they purchased their property. They have therefore chosen to expose</i></p>	<p>No. 19 Court Road is on the southern side of the street, the 3<sup>rd</sup> property from the corner of Kiaora Road and is occupied by a single storey cottage.</p> <p>Issues relating to traffic and noise are discussed in part 15 – Impacts, of this report.</p>

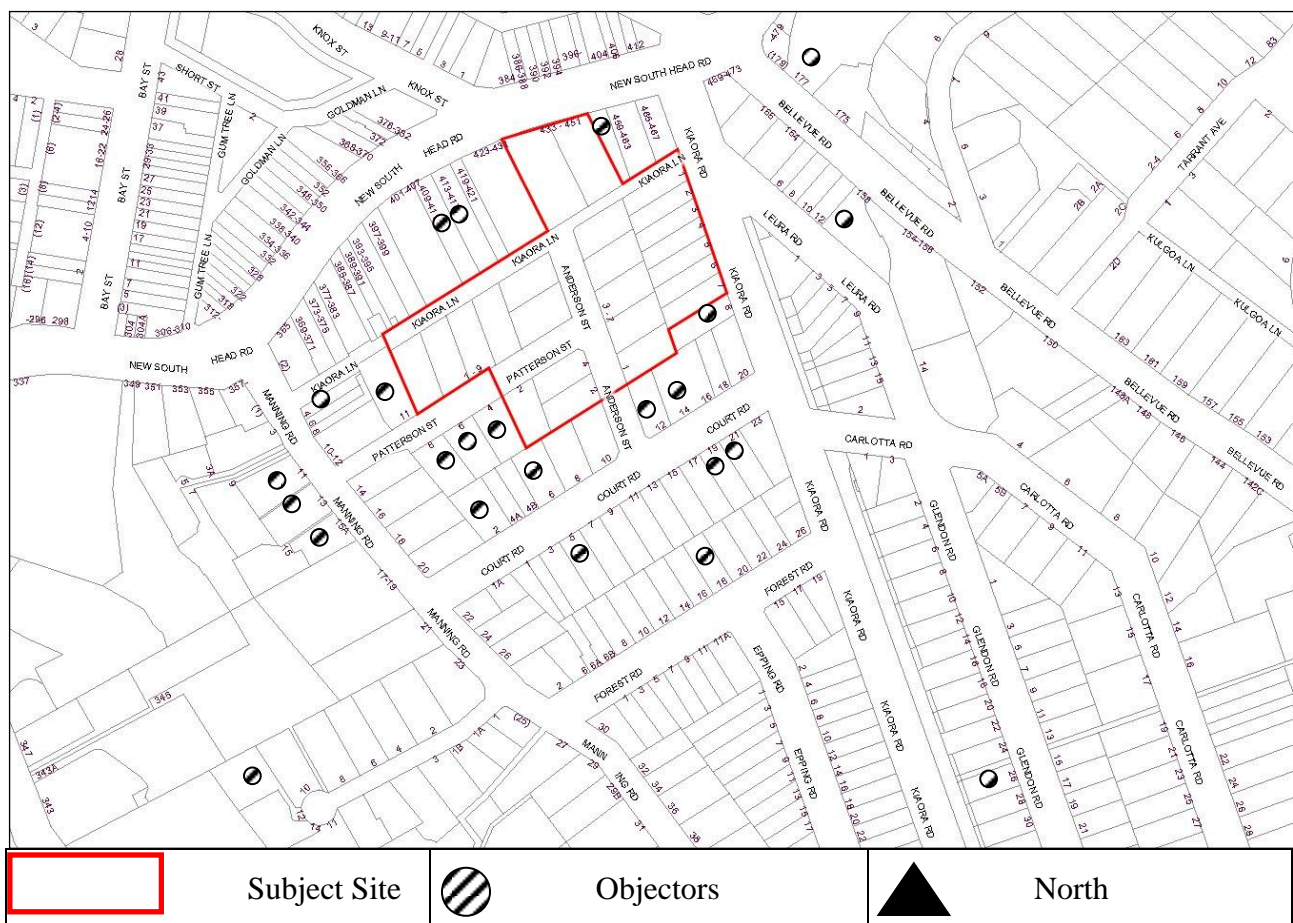
	<p><i>themselves to occasional periods of high noise, and would be aware that this proposal will be less intrusive than the existing shopping centre and carparks, under the improved situation. (p.33)</i></p> <p>They request the following amendments:</p> <ol style="list-style-type: none"> <li>1) Define Court Road as a local road</li> <li>2) Close Anderson Street and continue to use Kiaora Lane as access to the new carpark</li> <li>3) If (2) is unacceptable, only use Anderson Street as an exit</li> <li>4) Restrict Anderson Street exit to 7am and 7pm</li> <li>5) No heavy vehicles to use Court Road</li> </ol>	
Mrs Eia Stanich Lynam 18 Forrest Road Double Bay	Requests assurance regarding impacts of heavy vehicles; traffic volumes will be too heavy for Forest Road; and, no independent traffic report	The impacts of traffic are discussed in part 15 – Impacts, of this report.
Doris Stewart 2 Court Road Double Bay	Refers to the quote on p.33 of the Noise Report and objects to noise, traffic congestion and pollution.	<p>The impacts of noise and traffic are discussed in part 15 – Impacts, of this report.</p> <p>The recommendation of this report includes a number of conditions aimed at reducing noise, visual, air and water pollution.</p>
Mr G Tollis, Muwupa Pty Ltd 2/13 Manning Road Double Bay	The matters raised in this submission are the same as those discussed earlier from Patricia Oswald and Mark Newson.	Refer to the comments in relation to the submissions from Patricia Oswald and Mark Newson.
Anthony Tregoning 12 Pine Hill Avenue Double Bay	<p>Express the following concerns:</p> <ul style="list-style-type: none"> <li>• Carpark noise, i.e. amphitheatre effect of noise from roof top carpark and requests the extension of acoustic barriers and prohibit the use of the roof between 10pm and 7am</li> <li>• Visual impact relating to the roof top carpark</li> <li>• Increased traffic due to the impact on the intersection of New South Head Road and Manning Road</li> <li>• Dislocation during construction, i.e. the construction management plan should consider the acoustic and traffic impacts during construction</li> <li>• Aesthetic impact, i.e. the development favours functionality over aesthetics, the town square will not be an attractive place, a first-class architect should have been commissioned instead of one used to designing store or</li> </ul>	<p>Noise and traffic impacts are discussed in part 15 – Impacts, of this report.</p> <p>The Double Bay Centre DCP includes numerous urban design controls. Council also engaged an urban design consultant, Hassell, to review the development. Generally the proposal is consistent with the controls under the Double Bay Centre DCP or conditions are recommended to achieve consistency. The applicant has responded to the Hassell review by incorporating specific design improvements.</p> <p>The Double Bay Centre DCP contains specific provisions in part A2.5.7 relating to roof design. These are discussed earlier in the Double Bay Centre DCP assessment table of this report. The roof design is considered to be consistent with these provisions.</p>

	conventional commercial centres, and supports Council's Urban Designer's recommendation that 'an expert design review panel is set up to ensure an exemplary design outcome'.	
*Anthony Tergoning 12 Pine Hill Avenue Double Bay	<p>Reiterates concerns about the amphitheatre effect of carpark noise and requests that the height of the acoustic barrier be increased, the PVC covering be extended to cover the entire roof-top carpark and usage of the roof be prohibited between 10pm and 7am.</p> <p>Increased traffic – i.e. congestion, danger (at the NSH Rd/Manning Rd intersection) and requests an independent traffic consultant be appointed.</p> <p>Aesthetic impact – see above.</p>	<p>This submission relates indirectly to the amended plans.</p> <p>The purpose of the roof cover proposed by the amended plans is not related to noise. However, it is likely to be of some benefit. The carpark management plan allows for the operator to impose restrictions on the use of the roof should nuisances arise and it is recommendation of this report that additional restrictions be incorporated.</p> <p>The need for a roof or extension of acoustic barriers to control noise has not been identified by the applicant's acoustic consultant or by Council's Environmental Health Officer. As it has not been demonstrated that there is a need for such measures it would be unreasonable to require them to be provided.</p> <p>Refer to earlier comments regarding traffic and aesthetics.</p>
Kira Varejes The Roma Arcade 413-417 New South Head Road Double Bay	Concerned with the parking situation during construction.	The impacts of traffic are discussed in part 15 – Impacts, of this report.
Michele Wearn 5 Court Road Double Bay	<p>The traffic report conflicts with the acoustic report in terms of the classification of Court Road.</p> <p>A more comprehensive traffic report needs to be prepared.</p> <p>The validity of the surveys upon which the traffic report is based is questioned.</p>	The impacts of traffic and noise are discussed in part 15 – Impacts, of this report.
Ben Wood Roma Arcade 413-417 New South Head Road Double Bay	<p>Is pleased at the prospect of the development.</p> <p>Concerned with the impact on parking during construction.</p>	The impacts of traffic are discussed in part 15 – Impacts, of this report.
*Ben Wood Roma Arcade	Wants to know what traffic calming is going to be implemented on Manning Road and Patterson Street.	Traffic is discussed in part 15- Impacts of this report.
Mark Worthington BIKEast	The issues raised in the BIKEast's submission are discussed earlier in this report under the Double Bay Centre DCP assessment table, A2.5.6.	The recommendation of this report includes a condition and an advising regarding the incorporation of end-of-ride facilities into the development, see <b>condition F.38 &amp; advising K24</b> .
Gilma Zanin and Cindy Courteille-Zanin 6/11 Patterson Street Double Bay	Request that 2 parking spaces be allocated to them in the new development. Also, the plant rooms may expose dangerous hazards.	Their property is a 3 storey mixed use building which adjoins to the west of the development site.



		<p>Allocation of parking to residents in the development is not supported as the parking is for the use of people shopping and doing business in Double Bay.</p> <p>Parking issues are discussed in part 15 – Impacts, of this report.</p> <p>The plant rooms will be enclosed and do not pose any undue dangers or hazards.</p>
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The following map shows the location of objector's properties in relation to the development site.



NOTE: not all of the objector's properties could be shown on the map.

The main issues raised in the objections relate to traffic/parking and noise. These issues are discussed separately in part 15 – Impacts, of this report. Comment on the matters raised in submissions relating to traffic/parking issues is also made in the memorandum from Council's Manager-Engineering Services, see **annexure 2A**.

The matters raised in the objections have resulted in a number of conditions and advisings being included in the recommendation. However, they are not considered to warrant rejection of the application. Many of the submissions which raise concerns with certain aspects of the development also express support for the development generally.

## **17.2 Supporters**

Submissions were received from the following people who expressed support for the proposed development:

Francesca Bell  
1/36 Manning Road, Double Bay

Matthew Hyder  
31 Glendon Road, Double Bay

Tim Lee  
18/150 Bellevue Road, Bellevue Hill

Peter Rowe  
27 Davies Avenue, Vaucluse

Rosemary Samios  
5/61 Bay Street, Double Bay

John Simmon (for Bloomingdales Australia PL)  
Westpac Building, 393-395 New South Head Road, Double Bay

Ray Wilson  
69 Bellevue Road, Bellevue Hill

## **17.3 Statutory Declaration**

In accordance with Clause 4.5 of the Woollahra Advertising and Notification DCP, the applicant has completed the statutory declaration dated 24/2/12 declaring that the site notice for DA 532/2011/1 was erected and maintained during the notification period in accordance with the requirements of the DCP.

## **18. CONCLUSION - THE PUBLIC INTEREST**

In determining whether or not the proposal is in the public interest, both the wider public interest and the sectionalised public interest (protecting the amenity of the owners of surrounding land) must be taken into consideration in a balanced manner. In the event that the wider public interest outweighs the sectionalised public interest, the proposal can be determined to be in the public interest.

The Kiaora Lands site has been the subject of a comprehensive strategic planning exercise that has resulted in site specific development controls being incorporated into the Double Bay Centre DCP. The proposed development will deliver a number of wider public, social and economic benefits to the local community and to the Double Bay Town Centre. These benefits include:

- A new public carpark accommodating more than double the current number of public car parking spaces either at grade or connected to the street by a travelator, stairs and lifts
- A new paved and landscaped public plaza (approximately 500m<sup>2</sup>) connected by a new arcade to New South Head Road, providing for improved pedestrian permeability between New South Head Road and Kiaora Lane

- A new public library located on New South Head Road (approximately 2,235m<sup>2</sup>). The new library facility will bring a focus to the Double Bay centre and provide an opportunity to strengthen the identity of Double Bay as a civic centre in the Woollahra Municipality
- A glazed pedestrian arcade space that will provide easy access between the public carpark, the new supermarket/grocer/liquor store/retail outlets/office space and the rest of the Double Bay Town Centre to the north of New South Head Road
- Active uses along Kiaora Lane and around the edges of the new public plaza space linking key elements of the pedestrian network and providing for improved pedestrian amenity
- Substantial upgrading of Kiaora Lane including new paving treatment and creation of a 'shared zone' to provide for pedestrian priority and improved amenity
- Additional retail outlets, an expanded supermarket and new office accommodation. This diversity of uses will strengthen Double Bay's role and generate considerable economic benefits for existing businesses throughout the centre

It is considered that overall the proposed development will improve the vitality and amenity of the Double Bay Town Centre, increasing the attractiveness of Double Bay as a place to live, work and shop, and provide a catalyst for increased business activity and private sector development in the Centre.

The DA was accompanied by an economic assessment report (appendix T of the Statement of Environmental Effects) *Double Bay, Sydney Discussion of Economic Impacts* prepared for Woolworths by LOCATIQNduane and dated 7/1/11. It lists the public benefits and employment impacts in part 4. This report draws on an earlier report by Hill PDA *Double Bay Commercial Centre Development Study* January 2007 commissioned by Woollahra Council to gauge the impact of Bondi Junction on the Double Bay commercial centre. The LOCATIQNduane report maintains that the proposed development addresses issues raised by Hill PDA. It also concludes significant employment benefits including multiplier employment benefits.

The short term impacts on the amenity of the surrounding residential area during construction in terms of traffic, noise, vibration and dust can be mitigated by the imposition of the recommended conditions of consent. In the longer term potential adverse impacts in relation to traffic/parking and noise would be adequately managed and reduced through the imposition of the recommended conditions of consent.

It is considered that the proposed development meets the objectives for the development of the Kiaora Lands site, as outlined in the Double Bay Centre DCP, A2.2. The proposed development is therefore considered to be in the public interest.

In terms of the sectionalised public interest it is accepted that the proposal will impact upon the amenity of the residents and occupiers in the vicinity of the site. However, it is considered that these impacts can be adequately conditioned to ensure that the proposal will not have any significant adverse impact upon the residential amenity of the local community.

The proposal is considered to be consistent with the relevant objectives of the Act, as contained in s.5 and which have been stated earlier in this report. The proposed development provides for:

- proper management, development and conservation of urban land
- the social and economic welfare of the community through the provision of public facilities, employment opportunities and stimulus for the Double Bay business centre
- improved community services in a more accessible location
- the protection of the environment and will not threaten fauna, flora or habitats
- enhanced urban design outcomes in the form of public spaces and built forms along the main street

The proposal is considered to consistent with accepted ecologically sustainable development principles, i.e. the precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms as:

- It does not pose a threat of serious or irreversible environmental damage
- It represents a sustainable use of the site utilising existing infrastructure and making more efficient use of the land
- It will have positive social, economic and environmental impacts
- The development achieves the equivalent of a 5 star energy rating for the office HVAC and retail car park ventilation systems, will incorporate WSUD and uses water efficient devices
- Environmental mitigation measures include the cost of implementation in the total project cost

The proposal is considered to be in the public interest and acceptable against the relevant considerations under s79C of the Act.

## **19. 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.

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

THAT the Joint Regional Planning Panel, as the consent authority, is of the opinion that the objections under *State Environmental Planning Policy No. 1 – Development Standards* to the height of buildings standard under in clause 12 of *Woollahra Local Environmental Plan 1995* are well founded. The Joint Regional Planning Panel is also of the opinion that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as the development will achieve the objectives of the standard.

**AND**

THAT the Joint Regional Planning Panel, as the consent authority, being satisfied that the objections under SEPP No. 1 are well founded and also being of the opinion that the granting of consent to Development Application No. 531/2011 is consistent with the aims of the Policy, grant development consent to DA No. 531/2011 for the Kiaora Lands Redevelopment comprising demolition of existing buildings and structures, a new 4 storey commercial/retail building fronting New South Head Road and including a new public library, a new 3 level commercial/retail building fronting Kiaora Lane, including a supermarket and public parking, public domain improvements and remediation works on land at 1 Kiaora Road Double Bay, 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.

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)
Project 36280.02-3	Updated report on acid sulphate soil management plan	Douglas Partners	18/2/10
Acoustics			
Report No. 11-1605-R1	Noise Impact Assessment	Reverb Acoustics	Nov 2011
11-1605-L2	Addendum to Reverb Acoustics Report 11-1605-R1	Reverb Acoustics	1/3/12
3109_SK_563	Acoustic control plan	nettletontribe	Feb 2012
3109_SK_564	Acoustic control-sections	nettletontribe	Feb 2012
Architectural Plans			
3109_DA_002-E	Site Plan/Roof Plan	nettletontribe	6/2/12
3109_DA_003-D	Ground Floor Plan	nettletontribe	10/11/11
3109_DA_004-C	First Floor Plan	nettletontribe	10/11/11
3109_DA_005-D	Second Floor Plan	nettletontribe	6/2/12
3109_DA_006-E	Third Floor Plan	nettletontribe	6/2/12

3109_DA_011-D	Site Plan/Roof Plan	nettletontribe	10/11/11
3109_DA_012-D	First Floor Plan	nettletontribe	10/11/11
3109_DA_013-D	Second Floor Plan	nettletontribe	6/2/12
3109_DA_014-F	Roof Plan	nettletontribe	27/2/12
3109_DA_015-B	Library & Mixed Use Ground Floor Plan	nettletontribe	12/10/11
3109_DA_016-B	Library & Mixed Use First Floor Plan	nettletontribe	12/10/11
3109_DA_017-B	Library & Mixed Use Second Floor Plan	nettletontribe	12/10/11
3109_DA_018-C	Library & Mixed Use Third Floor Plan	nettletontribe	26/10/11
3109_DA_019-C	Library & Mixed Use Roof Plan	nettletontribe	26/10/11
3109_DA_021-D	Streetscape Elevations	nettletontribe	6/2/12
3109_DA_022-C	Streetscape Elevations	nettletontribe	10/11/11
3109_DA_023- B	Library & Mixed Use Streetscape Elevations	nettletontribe	12/10/11
3109_DA_024-D	Elevations	nettletontribe	6/2/12
3109_DA_025-C	Library & Mixed Use Elevations	nettletontribe	26/10/11
3109_DA_031-E	Sections	nettletontribe	27/2/12
3109_DA_032-B	Library & Mixed Use Library Sections	nettletontribe	12/10/11
3109_DA_035-A	Rooftop shade structure details	nettletontribe	27/2/12
3109_DA_041-D	Finishes Schedule	nettletontribe	6/2/12
3109_DA_043-B	Library & Mixed Use Finishes Schedule	nettletontribe	12/10/11
3109_DA_054-D	Signage	nettletontribe	6/2/12
3109_DA_055-A	Library & Mixed Use Signage	nettletontribe	12/10/11
3109_DA_071-B	Demolition Plan	nettletontribe	12/10/11
3109+SK551	Ramp Layout - Plans	nettletontribe	Jan 2012
3109_SK552	Ramp Layout - Sections	nettletontribe	Jan 2012
	Construction Management Plan	Caverstock Group	15/11/11
Project 36280.05	Report on Supplementary Contamination Assessment	Douglas Partners	13/4/12
Project 36280.04-2-rev 01	Contaminated Land - Remedial Action Plan (Stage 3)	Douglas Partners	Apr 2012
301015-12277 – 301015-02277-EN-REP-0001 Kiaora Lands.doc	DA Flooding, Stormwater and Pavement Design Report	Worley Parsons	27/10/11
301015-02277-EN-REP-0002[0]-FIA.doc	Flood Impact Assessment Report	Worley Parsons	27/10/11
Project 30422.02	Report on geotechnical investigation	Douglas Partners	Mar 2010
E12616/1-BY	Hydrogeological Report	Coffey	16/10/03
Landscape Plans			
09582_LSK_000 E	Cover Sheet & Schedules	context	Nov 2011
09582_LSK_001 E	Tree Retention Plan	context	Nov 2011
09582_LSK_002 E	Landscape Concept Plan	context	Nov 2011
09582_LSK_003 E	Plaza Landscape Concept Plan	context	Nov 2011
09582_LSK_004 E	Patterson Lane Connection	context	Nov 2011
09582_LSK_005 E	Section A-A	context	Nov 2011
09582_LSK_006 E	Section B-B	context	Nov 2011
09582_LSK_007 E	Section C-C	context	Nov 2011
09582_LSK_008 E	Section D-D	context	Nov 2011
09582_LSK_009 E	Section E-E & I-I	context	Nov 2011
09582_LSK_010 E	Typical Details	context	Nov 2011
09582_LSK_011 E	Planting Palette	context	Nov 2011
473AIA	Arboricultural Impact Assessment	Tree Wise Men Australia PL	May 2011
Sample Boards			
3109_DA	Finishes Board - Supermarket	nettletontribe	
3109_DA	Finishes Board – Library	nettletontribe	
3109_DA	Finishes Board – Carpark	nettletontribe	
3109_DA	Finishes Board – Office	nettletontribe	

Stormwater drainage concept design			
3577 H-01 03	Cover sheet, legend, notes and drawing list	Warren Smith & Partners PL	Jun 2012
3577 H-02 03	Ground floor plan	Warren Smith & Partners PL	18/10/11
3577 H-03 03	Level 1 floor plan	Warren Smith & Partners PL	18/10/11
3577 H-04 03	Level 2 floor plan	Warren Smith & Partners PL	18/10/11
3577 H-05 03	Level 3 floor plan	Warren Smith & Partners PL	18/10/11
3577 H-06 03	Level 4 roof floor plan	Warren Smith & Partners PL	18/10/11
3577 H-07 03	Rectification and connection of existing stormwater discharge into Kiaora Lane	Warren Smith & Partners PL	18/10/11
Civil works			
SKC01 rev. B	Kiaora Lane concept siteworks plan and longitudinal section	BG&E	24/10/11
SKC02 rev. B	Kiaora Lane cross section sheet 1	BG&E	24/10/11
SKC03 rev. C	Stormwater concept plan	BG&E	16/11/11
SKC04 rev. C	Carpark levels plan	BG&E	16/11/11
SKC05 rev. A	Cut and fill plan	BG&E	24/10/11
SKC06 rev. A	Culvert longitudinal section	BG&E	24/10/11
CSK001 rev. A	Sydney Water culvert barrier fence	BG&E	25/1/12
Traffic Report			
Project No: 209/058/47 RPT – Final	Statement of Environmental Effects	TPG	Nov 2011
Issue B Final issue (letter)	Heritage Assessment & Heritage Impact Assessment (referral response – pre DA lodgement heritage, clause A2.3.2.4 New South Head Road)	GB&A (GB&A)	02/09/11 (18/10/11)
Ecologically Sustainable Development Reports			
6018326	Woolworths Sustainable Design	Fabcot Pty Ltd	May 2011
	ESD Review	AECOM	5/4/11
SM0084:29650 R01	Hazardous materials survey report	McNally Management PL	Revision 1 – Dec 10
Final v2	Accessibility review	Morris-Goding Accessibility Consulting	29/9/11
Project No: 209.058.47 CPTED FH	Crime prevention through environmental design assessment report	TPG	Oct 2011
(SEE appendix Z)	Trolley management plan		
	Letter	Sydney Water	10/2/12

**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 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 February 2012 unless expressly provided otherwise by these conditions at the *owner's* expense.

**Note:** This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.  
Standard Condition: A8

#### **A.5 Conditions of consultation – Traffic Generating Development (Infrastructure SEPP)**

The following conditions have been sought the NSW Roads and Maritimes Services' (RMS) Sydney Regional Development Advisory Committee and Council concurs with the imposition of these condition(s)<sup>6</sup>:

- a) The developer shall prepare an updated traffic signal design plan for the existing signalised intersection of New South Head Road and Kiaora Road illustrating the proposed fourth phase and associated infrastructure. The design shall include potential signal hardware and civil works necessary to allow the installation of the fourth phase. RMS notes the 5 way intersection is complex and will require specialist technical design support to develop a suitable design. The revised signal design plan shall be submitted and approved by RMS prior to the issuing of the occupation certificate.

A trial period of signal operation in its existing configuration shall be undertaken to access the performance of the intersection post development. The proponent shall prepare a signal monitoring plan that will allow RMS to evaluate intersection and corridor performance of the road network in the Double Bay CBD without implementing the fourth phase. Any costs associated with the evaluation and reporting, as required by RMS, shall be at the full cost of the developer. Following trial evaluation, RMS will assess and determine whether the fourth phase is to be installed. (RMS reserves the right to direct installation of the fourth phase at any point during the trial, should the need arise on safety or network performance grounds).

Subject to design approval, the proponent shall be required to install preliminary works (eg cabling, etc), prior to the issuing of the occupation certificate. RMS will seek to maximise installation of preliminary works, in an effort to minimise the outstanding works necessary, so as to allow the rapid implementation of a fourth phase, if required at short notice.

The implementation of the proposed fourth phase shall be at full cost to the developer. RMS will seek lodgement of security or payment of the estimated cost in advance, to cover the cost of any outstanding installation works that cannot be installed as preliminary works.

- b) Prior to an occupation certificate being issued, a CCTV camera shall be permanently installed at the signalised intersection on New South Head Road at Kiaora Road in accordance with RMS requirements, to allow RMS to monitor and adjust the signal operation as required, as a safeguard to support the trial.

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<sup>6</sup> Condition g) has been varied from that sought by RMS.

- c) Prior to an occupation certificate being issued, the proponent shall prepare and submit a civil works design to extend the right turn storage bay at the New South Head Road/Manning Road intersection. The right turn movement into Manning Road from New South Head Road will be monitored and evaluated for a 12 month trial period (in accordance with the terms above), to determine if this existing right turn storage bay needs to be extended.
- d) Prior to an occupation certificate being issued, the developer shall enter into a 'Works Authorisation Deed' with RMS for the abovementioned works. The amount of security for the works shall be determined and captured in the WAD. The WAD shall identify the mechanisms to be set in place to capture actual evidence of incidents/high risk situations and impacts to traffic flow on New South Head Road, to assist with trial evaluation and determination.
- e) All road works/regulatory signposting associated with the proposed development shall be at no cost to RMS.
- f) The swept path of the longest vehicle (including garbage trucks) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS.
- g) A service vehicle management plan needs to be prepared and submitted to Council for approval restricting deliveries to outside of peak traffic periods, where practicable, due to the potential conflicts between cars and service vehicles.
- h) The proposed development should be designed such that road traffic noise from New South Head Road is mitigated by durable materials and complies with the requirements of Clause 102 – (Impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.
- i) Post development stormwater discharge from the subject site into RMS drainage system must not exceed the pre development discharge.

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works.

Details should be forwarded to:  
The Sydney Asset Management  
PO Box 973  
Parramatta CBD NSW 2124

A plan checking fee may be payable and a performance bond may be required before the RMS's approval is issued. With regard to the Civil Works requirement please contact the RMS's Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766

- j) Any proposed landscaping, fencing or signage is not to impede the desired sight lines of all road users including pedestrians and cyclists.
- k) All vehicles must enter and exit the subject site in a forward direction.
- l) Approval being obtained from the Roads Safety Section of RMS for the proposed shared zone on Kiaora Lane.

**Note:** Should you have any questions relating to this condition please contact Ravi Ravendra on 8849 2540.  
Standard Condition: A24

#### **A.6 Monetary Contribution (under SEPP (Affordable Rental Housing) 2009)**

In accordance with Section 94F(2)(b) of the Act and clause 51 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*, a monetary contribution of \$148,250.00 is to be paid to Council prior to the issue of any Occupation Certificate, including any interim Occupation Certificates, to cover the loss of low rental affordable housing.

In accordance with Section 94G(3)(b) of the *Environmental Planning and Assessment Act, 1979*, the full contribution will be paid to the Chief Executive of Housing NSW, Department of Human Services.

#### **A.7 Arrangements to assist residents find alternative accommodation**

The applicant is to provide documentary evidence that it has made the following arrangements to assist any residents of 2 Anderson Street, Double Bay to find alternative accommodation:

1. It has entered into an agreement with a local real estate agent giving displaced residents first option for comparable accommodation that comes onto the market; and
2. Any residents are given a period of notice to vacate the premises of not less than 90 days

The applicant is also to inform any residents of the above arrangements and provide documentary evidence to Council that it has so informed any such residents

This condition has been imposed under s.94F(5) of the Act following an assessment of the development application against the provisions of cl.50(2)(d) of *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

#### **A.8 Water Management (Department of Primary Industries (NSW Office of Water))**

Any minor excavation (such as lift shaft pumps) should be watertight final construction to prevent unnecessary future exposure of workers or others on site to groundwater seepage that could potentially become contaminated without warning.

**Note:** This condition has been imposed in response to comments provided by Department of Primary Industries (NSW Office of Water) by letter to Council dated 21/12/11.  
Standard Condition: A16

#### **A.9 Crime Prevention Through Environmental Design (CEPTED) – Safer by design**

The following general conditions have been sought the NSW Police Service and Council concurs with the imposition of these conditions:

1. Any marketing material placed on window spaces must be placed in a manner which allows surveillance opportunities of persons within the retail area
2. Surveillance mirrors are to be positioned so that they can not be vandalised
3. An appropriately qualified lighting designer is to certify that pedestrian lighting exceeds the requirements of Australian Standards 1158.3.1, prior to an occupation certificate being issued
4. CCTV footage is to be of sufficient quality to provide Police with footage that could be used to identify, arrest and charge an offender
5. The ceiling of the car parking areas is to be painted white

6. Additional signage is to be provided in the car park to alert drivers to the possibility of Steal from Motor Vehicle offences if drivers leave valuables in a vehicle
7. A higher level of territorial reinforcement is required at the ground floor level to each street frontage within the mall area as referred to in the Statement of Environmental Effects, appendix U, part 3.3
8. The selection of shade cloth to cover wire fencing and scaffolding around the site, as referred to in the Construction Management Plan, part 7.00 is to have regard to graffiti vandalism
9. With regard to the identification of asbestos on site, Police and other emergency services should be consulted to plan for any required road redirections particularly when demolishing the Bonhams and Goodman Auction House as this may cause extensive traffic flow issues
10. Woollahra Municipal Council's Community Services is to liaise with NSW Police to ensure that all crime minimisation factors are identified prior to the construction/use of the library

**Note:** This condition reflects the requirements of the NSW Police Service sought following the referral of the proposal to the local NSW Police Service's Community Safety Officer under a memorandum of understanding between the NSW Police Service and Council. These requirements are imposed to improve natural surveillance and community safety.

Standard Condition: A26

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

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

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

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

Standard Condition: B1

### **B.2 Recording of buildings with little or no heritage significance that are to be demolished:**

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

The photographic archival recording is to be bound in an A4 format and is to include the following:

- 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.
- b) Postcard sized photographs of:
  - each elevation,
  - each structure and landscape feature;
  - views to the subject property from each street and laneway or public space.

Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.

One original coloured photographic set and a coloured photocopy are to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to the Woollahra Local History Library

Standard Condition: B4

### B.3 Arborists periodic site inspection 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 arborist's site inspections are to be recorded in the log during each visit. At each site visit the arborist must check and monitor the condition of existing trees and compliance with approved protection measures or recommend action to improve site conditions. As a minimum the following intervals of site inspections by a qualified arborist must be made.

Stage of arboricultural inspection	Minimum considerations at each stage	Additional visits required determined by arborist notes/comments
Prior to the demolition of any building or construction.	<ul style="list-style-type: none"> <li>Installation of Tree Protection completed in accordance with Tree Wise Men Arborist's report (reference number 473 AIA) and conditions of consent.</li> </ul>	Make additional site visits as deemed necessary for ongoing monitoring/supervisory work.
During development work.	<ul style="list-style-type: none"> <li>Ensure all tree protection requirements such as tree protection fencing and trunk protection and other approved works within tree root zones are complied with.</li> <li>Supervise any approved works including excavation, changes to levels, soft landscaping, changes to road way surfaces, installation of services and pipes and demolition of existing walls or hard surfaces within the tree protection zone awarded measurements outlined in Tree Wise Men Arborist's report (reference number 473 AIA)</li> <li>Monitor condition of trees.</li> </ul>	Visit site at <b>two week</b> intervals to monitor condition of protected trees.
Prior to the issue of a Final Occupation Certificate.	<ul style="list-style-type: none"> <li>Supervise the dismantling of tree protection measures.</li> </ul>	Make additional site visits as deemed necessary for ongoing monitoring of tree vigour.

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

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

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

- a) The mechanical plant areas on the roof of the New South Head Road building are to be setback minimum distances of 3m from the eastern and western side boundaries respectively. The vertical extension of the side walls to enclose the plant areas on the boundaries is also to be deleted. This requirement has regard to heritage and urban design considerations and to reduce the perceived height to these structures.
- b) The fire control room, fire hydrant/sprinkler pump room/valves and fire fighting fire assemblies at the eastern end of the building at ground floor being designed so the access doors do not encroach onto Kiaora Road whilst open or being opened. Bike racks at the Kiaora Road frontage are not to encroach onto the public footpath/street.
- c) Doors to the retail outlets on the ground floor of the Kiaora Lane building being redesigned so as not to encroach onto Kiaora Lane whilst open or being opened.
- d) A window being installed in the southern elevation of the 1<sup>st</sup> floor of the Kiaora Lane building adjacent to northern end of Anderson Street (between grids 8 and 9 as shown on Nettleton Tribe drawing 3109\_DA\_024-C). The window to have approximate minimum dimensions of 2m x 2m.
- e) The shading devices on the southern side of the roof level carpark of the Kiaora Lane building being redesigned to conform with the Double Bay Centre Development Control Plan, A2.4 *Built form envelopes*, edge condition H.
- f) The south eastern corner of the Kiaora Lane building (adjacent to the rear of 8 Kiaora Road) being redesigned to comply with Double Bay Centre Development Control Plan 2002 (amendment 3), A2.4 *Built form envelopes*, edge condition B.
- g) The paving treatment of the shared zone in Kiaora Lane is to consist of high quality granite paving units of a colour and pattern which distinguishes the carriageway area and which will be durable and resist staining/discolouring. Details are to be submitted to and approved by Council's Technical Services Division.
- h) The balcony to the first floor level on the southern elevation of the New South Head Road building having a maximum projection of 2.4m beyond the façade of the building in order to comply with the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.5.3, C10.
- i) The south-eastern wall of the carpark entry/exit to Kiaora Road must extend to the street alignment. This is to satisfy the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C33.
- j) Design changes which incorporate all of the recommendations of the report prepared by Morris-Goding Accessibility Consulting titled *Kiaora Lands redevelopment accessibility review*, dated 29/9/11, final v2.
- k) The vertical projecting wall sign on the Kiaora Lane elevation at the roof level of the Kiaora Lane building and displaying the Woolworths logo is to be deleted.
- l) The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail the following noise control measures required pursuant to A2.5.6 of the *Double Bay Centre Development Control Plan 2002*;
  - i. The loading docks are to be provided with automated doors with a surface mass greater than 3kg/m<sup>2</sup> and the sides, head and thresholds of each is to be designed to obviate, or minimise any undesirable sound leakage.
  - ii. The loading dock doors are to be designed so that their noise emission components when either opening or closing are no more than 5dB(A) above the background sound level when measured at the façade of the nearest, or any other residential property.

- iii. The ceiling, as well as significant areas of the walls of the loading docks are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area and ensure there is minimum possibility of the loading docks impacting on neighbours.
- iv. The underside of the roof of the ground floor carpark is to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.
- v. The soffit of the supermarket floor is to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.
- vi. The interconnecting ramp between the ground level and rooftop carpark is to have a smooth primary surface and not parallel ribbed surfaces. The ramp should incorporate small angled parallel grooves in a chevron pattern which may be cut into the surface of the cured concrete. The surface must be designed to preclude structural vibration and adverse related intrusive noise levels (or noise radiation from the main building structure) as well as provide positive tyre adhesion in the presence of water or oil.
- vii. The ceiling and walls of the entry and exit structure to Kiaora Road are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area.
- m) The through-site pedestrian footpath linking the plaza and Anderson Street:
  - i. being increased in width to a minimum of 2.5m, except for where the path is adjacent to trolley storage racks where a minimum width of 1.8m is to be maintained
  - ii. being clearly line marked and sign posted where it crosses driveway aisles
  - iii. having a physical separation from adjoining parking spaces/trolley storage racks in the form of a kerb, railing or the like
- n) Modifications must be made to the Kiaora Road carpark entrance such that there are 2 internal boom gates. This condition is imposed to prevent inbound vehicles to the carpark queuing across the Kiaora Road footpath and to ensure that vehicles queuing in Kiaora Road do not adversely impact on the efficient operation of the Kiaora Road/New South Head Road intersection.

The *Construction Certificate* plans reflecting the above items must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the plans have achieved the above design criteria.

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

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

**2. Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).  
Standard Condition: C61

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

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

**Note:** Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.  
Standard Condition: C4

## C.2 Payment of Security, Levies and Fees (Section 80A(6) and Section 94 of the Act, Section 608 of the Local Government Act 1993)

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

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the <i>Council</i>	\$1,310,530.00	No	T113
<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	\$179,341.00	No	T114
<b>INSPECTION FEES</b> under Section 608 of the Local Government Act 1993			
Public Tree Management Inspection Fee	\$166.00	No	T45
Public Road/Footpath Infrastructure Inspection Fee	\$420.00	No	T45
Security Administration Fee	\$180	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$1,490,635.00 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 2011 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 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 2011**

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

[NOTE: refer to condition A.6 regarding monetary contribution under SEPP Affordable Housing]

### C.3 Certification of Gross Floor Area

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must be accompanied by a certificate prepared by a surveyor, registered under the *Surveying Act 2002*, certifying that the gross floor area detailed by the *Construction Certificate* plan has been calculated in accordance with the definition of *gross floor area* in *Woollahra Local Environmental Plan 1995* and does not exceed 6,507.5<sup>m<sup>2</sup></sup> in relation to the New South Head Road building and 12,819m<sup>2</sup> in relation to the Kiaora Lane building.

**Note:** This condition has been imposed to ensure that the Applicant's Construction Certificate application plans comply with the gross floor area approved under this consent.  
Standard Condition: C12

### C.4 Road and Public Domain Works

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

#### a) Road and Drainage Works

##### Kiaora Lane

- Roadworks – Full width road reconstruction, kerb & gutter and/or dish footpath and level adjustment for the length of the development from about the eastern boundary of No 11 Patterson Street to Kiaora Road.  
Full width road reconstruction, replacement kerb & gutter and footpath pavers from the development to Manning Road.
- Plaza – construction of all public domain assets.
- Drainage- Construction of drainage and pits and connections to the existing drainage line. Box culvert construction for the full length of the development.

##### Kiaora Road

- Roadworks - road shoulder reconstruction, Replacement of kerb & gutter and footpath for the length of the development, long section for driveways.
- Drainage – new pipe connections and pipeline upgrades across Kiaora Road.

##### Patterson Street

- Roadworks - road pavement, kerb & gutter, driveways and new footpath.
- Drainage – new 375mm diameter Reinforced Concrete Pipe and pits.

##### Anderson Street

- Roadworks -Kerb & gutter and driveways and road pavement.
- Drainage – new 375mm diameter Reinforced Concrete Pipe and pits. Drainage impacts on the existing system in Court Road to be detailed.

##### Manning Road

- Replacement of footpath with pavers, east side between Kiaora Lane and Patterson Street.

##### Other

- There is conflict between the Flooding, Stormwater Report by Worley Parson, the Stormwater Drainage Concept Design by Warren Smith & Partners and the Kiaora Lane Concept Plan (Civil) by BG&E. These drainage conflicts are to be resolved and revised plans are to be prepared and submitted to Council.
- The amended plans are to be certified by the authors of the flood report that they satisfy their requirements for flood management.

- Dilapidation reports will be required on the adjoining road network that will be affected by construction equipment.
- All the above works will be subject to the submission and approval by Council of a S138 Roads Act application.
- All new footpaths and kerb returns are to incorporate pram ramps which comply with Council's Specification for Roadworks, Drainage and Miscellaneous Works.

b) General

Detailed engineering plans (plan, sections and elevation views) and specifications of all works for the footpath, driveways, kerb & gutter, drainage long sections new gully pit showing clearly the connection point of site outlet pipe(s) of the works required by this Condition must accompany the S138 Application form. The plans must also clearly show the following:

- Full width vehicular crossings to be constructed in accordance with Council's standard driveway drawing RF2C
- A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- Removal and replacement of the existing footpath for the full width of the property in accordance with Council's standard drawing RF3.
- Removal of all driveway crossings and kerb laybacks which will be no longer required.
- Reinstatement of footpath, kerb and gutter to match existing.
- Full new pavement details.
- Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

**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. Advisings of this Consent titled Roads Act Application*.  
Standard Condition: C13 (Autotext CC13)

## C.5 Waste Storage - Compliance with Waste Management Plan

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the Waste Management Plan prepared by JD MacDonald dated February 2012.

Waste Storage Areas must meet the following requirements:

- a. Bins must be stored with lids down to prevent vermin from entering the waste containers.
  - b. The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
  - c. Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
  - d. The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
  - e. Odour problems must be minimised by good exhaust ventilation.
  - f. Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
  - g. Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.
- Standard Condition: C19

## C.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.

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

## C.7 Provision for Energy Supplies

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

Any required substation must be located within the boundaries of the site.

Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

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

Where the substation is required the *Construction Certificate* plans and specifications must provide:

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

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

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

**Note:** Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419.1-1994 or by fire resisting construction under the *BCA* respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the *Act* to allow assessment under section 79C of the *Act*.

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

## C.8 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

**Note:** Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may be satisfied as to this matter.  
Standard Condition: C25

## C.9 Amended tree removal and tree retention plan

The submitted tree removal and retention plan must be amended to include the retention of Tree 33.

## C.10 Amended stormwater drainage plan

To minimise the potential for damage to existing tree root systems within the subject property and adjacent properties by the installation of sewer pipes, storm water pipes and stormwater drainage pits, an amended Stormwater Drainage Plan, conforming to the conditions of this Development Consent is to be submitted to Council for approval prior to issue of the Construction Certificate. The plan must maintain the following distances between existing trees within and adjoining the subject property and the location of proposed underground services.

Council Ref No:	Species	Location	Radius from centre of trunk (metres)
1	<i>Quercus robur</i> (English Oak)	Western end of Kiaora lane	4 metres
2	<i>Platanus hybrida</i> (London Plane)	Northern side of Patterson street	5 metres
3A	<i>Banksia integrifolia</i> (Coast Banksia)	Adjacent to Tree 2	2 metres
7	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson street	5 metres
8	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson Street	5 metres
12	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	4 metres
13	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	5 metres
14	<i>Platanus hybrida</i> (London Plane)	Eastern side of Patterson street	5 metres
15	<i>Platanus hybrida</i> (London Plane)	Eastern side of Anderson street	5 metres
31	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	2 metres
33	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	4 metres
35	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	4 metres
56	<i>Celtis sinensis</i> (Chinese Nettle)	Front garden of 2 Anderson street	3 metres
61	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear garden of 2 Patterson street	4 metres
63	<i>Archontophoenix alexandrae</i> (Alexander palm)	Rear garden of 2 Patterson street	1.5 metres

Where it is unavoidable for underground services to pass within the specified radius of trees to be retained detailed plans showing the proposed routeing must be prepared in conjunction with a qualified arborist using a methodology that will minimise root loss or damage (such as a trenchless technique) and submitted to Council for further review.

### C.11 Amended landscaped plan

An amended Landscape Plan, prepared by a qualified Landscape Architect or Landscape Designer, in accordance with Councils Development Application Guide Annexure 8 and conforming to the conditions of this Development Consent must be submitted to Council for further assessment. Additionally the amended landscape plan must include the following:

- 1) The proposed use of the species *Robinia pseudoacacia* 'Frisia' along Kiaora lane must be replaced with 1 of the following species:
  - *Caesalpinia ferrea* (Leopard Tree);
  - *Koelreuteria paniculata* (Golden Rain Tree);
  - *Pistacia chinensis* (Chinese pistachio).
- 2) The proposed use of the species *Robinia pseudoacacia* 'Frisia' shade/feature tree outside the library and within the Kiaora plaza area must be replaced with one of the following species:

- *Jacaranda mimosifolia* (Jacaranda);
  - *Angophora costata* (Smooth Barked Apple);
  - *Koelreuteria paniculata* (Golden Rain Tree);
  - *Caesalpinia ferrea* (Leopard Tree).
- 3) The proposed use of the species *Eucalyptus botrioides* along Kiaora Road must be replaced with one of the following species:
- *Flindersia australis* (Crow's Ash);
  - *Jacaranda mimosifolia* (Jacaranda);
  - *Angophora costata* (Smooth Barked Apple).

### **C.12 Excavation to accommodate the construction and re-alignment of driveways, roads and roundabouts within the structural root zone or Tree Protection zone of trees 8, 12 and 15**

Drawings detailing and incorporating the recommendations outlined within section 4.2.3 (*Recommendations for Tree Management*) of the submitted Tree Wise Men Arborists report (473 AIA) for works within the structural root zones and tree protection zones of trees 8, 12 and 15 must be submitted to Council for further assessment.

Drawings must be shown to be endorsed and /or designed with the assistance of the site arborist and clearly illustrate and include the following:

- Amendments to the layout of the kerb in Patterson Street to minimise incursion within the Structural Root Zone of Tree 8.
- A works methodology for excavation within the Structural Root Zone and Tree Protection Zone of Trees 8, 12 and 15 that aims to minimise root loss or damage.
- Amendments to final levels that has consideration to the probability of tree roots existing within these areas.
- The use of load bearing materials that are sympathetic to root function and future root growth i.e.; structural soils.
- The retention of existing curbs, such as that existing at the base of Tree 15 and recommended for retention within the supplied arborists report.

### **C.13 Tree Management Details**

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

- a) Trees to be numbered in accordance with these conditions,
- b) Shaded green where required to be protected and retained,
- c) Shaded yellow where required to be transplanted,
- d) Shaded blue where required to be pruned,
- e) Shaded red where authorised to be removed and,
- f) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

Standard Condition: C30



## C.14 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.15 Geotechnical and Hydrogeological Design, Certification & Monitoring

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

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

Standard Condition: C40

## C.16 Ground Anchors

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

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

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

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

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

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

Standard Condition: C41

## C.17 Parking Facilities

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

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

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

Standard Condition: C45

## C.18 Relocation or reconstruction of Council's stormwater drainage system

The developer must meet all costs of relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development. All engineering drawings (plan, sections and elevation views) and specifications of the new stormwater drainage system to be constructed are to be prepared by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

The design and construction of the works must be in accordance with Council's Draft Stormwater Drainage Management DCP (Draft Version 1.1, Public Exhibition Copy dated 14/12/2006) and "Specification for Road Works, Drainage and Miscellaneous Works" which include Council's Standard Drawings. Both documents are available from Council's website <http://www.woollahra.nsw.gov.au>.

**Note:** Four weeks should be allowed for assessment

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

Standard Condition: C.48 (Autotext CC48)

### **C.19 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
  - Stormwater Drainage Concept Design by Warren Smith & Partners and
  - Kiaora Lane Concept Plan (Civil) by BG&E other than amended by this and other conditions;
- b. the discharge of stormwater, by a single direct connection to the nearest Council drainage pit/system and to open channel as required by Sydney Water
- c. compliance the objectives and performance requirements of the BCA;
- d. any rainwater tank required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- e. general compliance with the Council's draft Development Control Plan Stormwater Drainage Management (draft version 1.1, public exhibition copy dated 14/12/2006)

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,
- Overland flow paths over impervious areas.
- 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.

Standard Condition: C51

## C.20 Flood protection

The *Construction Certificate* plans and specifications, required by Clause 139 of the *Regulation*, must include flood mitigation measures to provide protection for the development up to the Flood Planning Levels (FPL's) as determined by Flooding, Stormwater Report by Worley Parson dated 27 Oct 2011

The Flood Planning Levels (FPL's) are as follows for:

- Habitable buildings - RL 3.2mm AHD
- Non-Habitable buildings - RL 3.05mm AHD

The Flood Planning Levels (FPLs) are a combination of the 1:100 year flood level plus the selected freeboard. For Habitable floor levels not less than 300mm above the flood level and Non- Habitable floor levels not less than 150mm.

A detailed Emergency Response and Evacuation Management Plan is to be prepared and produced prior to occupation. See detailed conditions further in this consent.

Standard Condition: C54

## C.21 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 lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

**Note:** Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).

Standard Condition C59

## C.22 Food Premises – Construction Certificate Plans & Specifications

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

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

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

**Note:** The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.  
Standard Condition: C65

### C.23 Acoustic Certification of Mechanical Plant & Equipment (including electrical substations)

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level from any proposed mechanical plant and equipment (including electrical substations) measured at any time of the day or night, at the nearest, or at any residential property façade, while the proposed mechanical plant and equipment is operating, will not exceed the *nocturnal background noise level*.

The certificate must further certify that the cumulative noise level from all relevant items of mechanical plant and equipment (including electrical substations), when measured at the same location will not exceed the nocturnal background level by more than 5dB(A).

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

Where sound attenuation is required this must be detailed on the *Construction Certificate* plans and specification.

This condition is imposed to ensure compliance with control C10 of A2.5.3 – 'Built form south of Kiaora Lane' of the Double Bay Centre Development Control Plan 2002.

**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)).
3. **The background noise level** is to be measured on a windless Tuesday night which is normally the quietest night of the week. The results of this measure must not be degraded by the noise of passing traffic, or by the noise from vehicles entering or exiting the Anderson Street entry and exit. This may require the background noise level to be measure when the Anderson Street entry and exit is closed.

## **C.24 Hourly Noise Rating Background Level (RBLhr)**

An hourly RBLhr based on each individual one hour period across the entire monitoring period to be calculated (based on traffic flow data for the area) for comparison purposes against the presented assessment noise criteria (lowest RBL in the receiver areas) to demonstrate if there are any times of the day/night period when the RBLhr would be exceeded. The calculations are to be provided to Council.

## **C.25 Amended landscape plan**

An amended Landscape Plan, prepared by a qualified Landscape Architect or Landscape Designer in accordance with Council's Development Application Guide Annexure 8, and which incorporates the following information must be submitted to and approved by Council:

- 1) Consideration of plant species that do not require irrigation.
- 2) If irrigation is necessary in some area, the proposed location of the irrigation pump room and point of supply from rainwater tanks.
- 3) The use of Water Sensitive Urban Design elements to integrate the landscaped plan with the stormwater drainage plan through permeable areas, tree pits, bio retention, rain gardens and garden beds.
- 4) The use of tree pits and landscape areas that collect stormwater drainage for passive irrigation and drainage
- 5) The location and size of rainwater tanks must be included in the revised Landscape Plan.

This condition is imposed having regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.9 *Environmentally sustainable development*.

## **C.26 Amended stormwater drainage plan**

To provide for best practice environmentally sustainable design, concepts for Water Sensitive Urban Design elements within the Stormwater Drainage Plan are to be submitted to Council for approval prior to issue of the Construction Certificate. The revised Stormwater Drainage Plan is to include permeable onsite drainage, tree pits designed to collect surface drainage, bio retention and/or raingardens to be integrated into the stormwater drainage plan.

Existing trees to be retained are to be included in Water Sensitive Urban Design designs to minimise root loss or damage.

This condition is imposed having regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.9 *Environmentally sustainable development*.

## **C.27 Amended hydrological plan**

To provide for best practice environmentally sustainable design, a revised Hydrological Plan, including concepts for Rainwater Tank intake and distribution, is to be submitted to Council for approval prior to issue of the Construction Certificate.

The amended Hydrological Plan is to include further detail on rainwater collection and reuse. Designs for rainwater collection, down pipes, tank inlets and connections to end use (toilets & irrigation) are required.

This condition is imposed having regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.9 *Environmentally sustainable development*.

### **C.28 Detail for office plant space, Gas Heating Ventilation and Air Conditioning (HVAC) equipment and rainwater tanks**

Plans which include the following details must be submitted to Council for approval

- (a) Detail on plant space for offices located in the Kiaora Lane building
- (b) Cross sections and levels for rainwater tanks
- (c) Further detail on plant space for office air conditioning in Kiaora Lane building.
- (d) Further detail regarding location and size of the gas driven HVAC equipment for both buildings.

This condition is imposed having regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.9 *Environmentally sustainable development*.

### **C.29 Water and waste water - Section 73 Developers Certificate and Upgrading of existing system (Clause 25(1) WLEP 1995)**

A developer compliance certificate under Part 6, Division 9 of the *Sydney Water Act 1994* must have been issued by the Sydney Water Corporation prior to the issue of any *Construction Certificate*. The effect of this certificate is that adequate provision has been made or is available for the provision of potable water to and the removal of waste water from the development.

**Note:** Following application to Sydney Water, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with Sydney Water's authorised Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

**Note:** Further information can be obtained from the Sydney Water Corporation on or telephone 13 20 92 or by visiting their web site:  
[http://www.sydneywater.com.au/html/yourHome/edeveloper/urban\\_dev\\_qa.cfm](http://www.sydneywater.com.au/html/yourHome/edeveloper/urban_dev_qa.cfm).

### **C.30 Construction buffer zone**

A 2m buffer zone being provided between the rear boundaries of the Court Road properties during the construction phase. The buffer zone is to exclude the location of site construction/builder's sheds and is not to be used for storage. This condition is imposed to protect the residential amenity of Court Road properties during the construction phase. Site acoustic barriers/screening, as required by condition D.19 may be located in the buffer zone.

### **C.31 Australian Standard AS 2890**

All aspects of the proposed carpark and loading docks must comply with the Australian Standard AS 2890.1 and AS 2890.2 respectively.

**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.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*,
- 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 Remediation Action Plan**

The areas of soil contamination/materials identified at the Kiaora Lands Redevelopment site following the Supplementary Contamination Assessment undertaken by Douglas Partners (Project: 36280.05 April 2012) are to be excavated and disposed off-site in accordance with the remedial action strategy detailed in the Remediation Action Plan prepared by Douglas Partners (Project: 36280.04-2-Rev 01 April 2012) so that the site is rendered suitable for the proposed commercial land use.

**D.3 Validation and Monitoring Report**

A Validation and Monitoring Report must be submitted to the consent authority within 30 days of completing remediation works and prior to the commencement of building construction works pursuant to Clause 18 of SEPP No. 55 – Remediation of Land.

The objectives of the Validation and Monitoring Report are to demonstrate that the objectives stated in the preferred remedial option ('excavation & off-site disposal') of the Remediation Action Plan (DP Project: 36280.04-2-Rev 01 April 2012), including compliance with relevant development consent conditions have been achieved. The Validation and Monitoring Report shall provide a clear statement that the consultant (Douglas Partners) considers that the subject site to be suitable for the proposed use and detail, if any, all limitations and constraints on the use of the site and recommendation for further work, if appropriate.



#### D.4 Environmental Management Plan (EMP)

An (EMP) is to be prepared for the Kiaora Lands Redevelopment site. The EMP is to be prepared and finalised for Council review before the commencement of demolition and excavation works at the development site. The objectives of the EMP shall detail but not be limited to:

- Identify the environmental issues/risks associated with development works focusing on pollution control measures. These measures are to be designed to prevent migration of contaminated soil from the designated excavation areas; suppress dust & odours; prevent surface water/sediment run-off from excavations and stockpiles; minimise noise
- Excavation pump-out of site waters
- Site access and all haulage routes for trucks transporting soil, materials and equipment to and from the site
- Management practices to restrict access to contaminated materials & responsibilities for implementing the EMP

#### D.5 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)

- Court Road nos. 2, 4A, 4B, 6, 8, 10, 12, 14-16, 18 and 20
- Kiaora Road no.8
- Manning Road nos. 4, 6, 8, 10-12, 14, 16, 18 and 20
- New South Head Road nos. 365, 369-371, 373-375, 377-383, 385-387, 389-391, 393-395, 397-399, 401-407, 409-411, 413-417, 419-421, 423-431, 453-457, 459-463 and 465-467
- Patterson Street nos. 4, 6, 8 and 11

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

Standard Condition: D4

## D.6 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the *Principal Contractor* must submit a dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site as described below:

- Manning Road – full width New South Head Road to Court Road
- Kiaora Lane – full width Manning Road to new construction zone
- Kiaora Road – full width New South Head Road to Court Road
- Patterson Street – full width Manning Road to new construction zone
- Anderson Street – full width Court Road to new construction zone
- New South Head Road – half road south side from Kiaora Road to opposite Knox Street

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

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

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

**Note:** If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.  
Standard Condition: D5

## D.7 Adjoining buildings founded on loose foundation materials

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

**Note:** A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.  
Standard Condition: D6

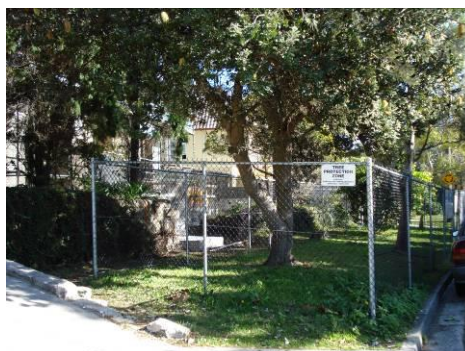
## D.8 Establishment of Tree Protection Zones

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

### a) Tree Protection Fenced areas

Council Ref No:	Species	Location	Radius from Trunk (metres)
1	<i>Quercus robur</i> (English Oak)	Western end of Kiaora lane	4 metres
2	<i>Platanus hybrida</i> (London Plane)	Northern side of Patterson street	5 metres
3A	<i>Banksia integrifolia</i> (Coast Banksia)	Adjacent to Tree 2	2 metres
7	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson street	5 metres
8	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson Street	5 metres
12	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	4 metres
13	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	5 metres
14	<i>Platanus hybrida</i> (London Plane)	Eastern side of Patterson street	5 metres
15	<i>Platanus hybrida</i> (London Plane)	Eastern side of Anderson street	5 metres
31	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	2 metres
33	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	4 metres
35	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	4 metres
56	<i>Celtis sinensis</i> (Chinese Nettle)	Front garden of 2 Anderson street	3 metres
61	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear garden of 2 Patterson street	4 metres
63	<i>Archontophoenix alexandrae</i> (Alexander palm)	Rear garden of 2 Patterson street	1.5 metres

### b) Tree Protection Areas 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.



**Figure 1.** A typical example of chainmesh fencing and signage to be installed as fencing for tree protection zones.

- c) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

Council Ref No:	Species	Location
1	<i>Quercus robur</i> (English Oak)	Western end of Kiaora lane
2	<i>Platanus hybrida</i> (London Plane)	Northern side of Patterson street
3A	<i>Banksia integrifolia</i> (Coast Banksia)	Adjacent to Tree 2
7	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson street
8	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson Street
12	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street
13	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street
14	<i>Platanus hybrida</i> (London Plane)	Eastern side of Patterson street
15	<i>Platanus hybrida</i> (London Plane)	Eastern side of Anderson street
33	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road
35	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road
56	<i>Celtis sinensis</i> (Chinese Nettle)	Front garden of 2 Anderson street
61	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear garden of 2 Patterson street
63	<i>Archontophoenix alexandrae</i> (Alexander palm)	Rear garden of 2 Patterson street

A padding material e.g. 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.



**Figure 2.** A typical example of trunk protection to be installed

- 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 Fenced Zone. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (e.g. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- f) Sediment control measures are to be installed around all Tree Protection Fenced areas 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 Fenced Area.

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.

**Note:** Water Restrictions take precedence over this condition. Having regard to water restrictions manual hosing may be necessary.  
Standard Condition: D8

## **D.9 Construction Management Plan**

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

A Construction Management Plan prepared by Caverstock Group dated 15 November 2011 has been submitted in support of the application. An amended CMP is to be submitted to Council and approved by Council's Traffic Engineer to address the following.

- During construction, heavy vehicle access via Court Road and Anderson Street is to be minimised.
- During construction, no heavy vehicles associated with the site are to utilise Manning Road, Epping Road, Forest Road or Bellevue Road.
- The temporary closure of Kiaora Lane is to be referred to the Woollahra Traffic Committee for consideration and approval, prior to the issue of the Construction Certificate.
- Should the existing Woolworths remain open during construction, the applicant is to develop a trolley management system during works which may include the operation of a customer courtesy trolley system, to assist customers to their parked vehicles. It may also include a trolley collection system in the Cross Street car park and within 400m of the existing Woolworths site. The trolley management system is to be documented and submitted to Council for approval by Council's Director-Technical Services, prior to the issue of the Construction Certificate.

The plan must also:

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
  - Local traffic routes
  - Pedestrian circulation adjacent to the building site
  - On-street parking in the local area
- b) Describe the means proposed to:
  - Manage construction works to minimise such impacts,
  - Provide for the standing of vehicles during construction,
  - Provide for the movement of trucks to and from the site, and deliveries to the site
  - Manage the impacts associated with the loss of public carparking on the subject 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 Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

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

Standard Condition: D9 (Autotext: DD9)

## D.10 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 must not be erected until full payment of works zone fees.

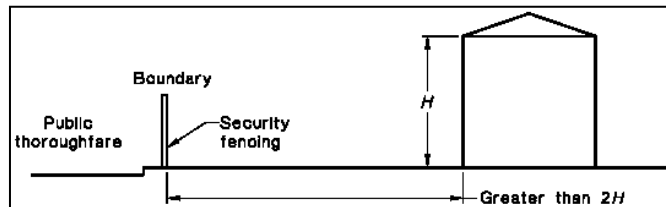
**Note:** The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

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

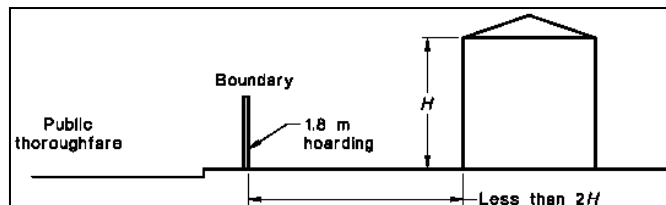
Standard Condition: D10

## D.11 Security Fencing, Hoarding and Overhead Protection

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



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

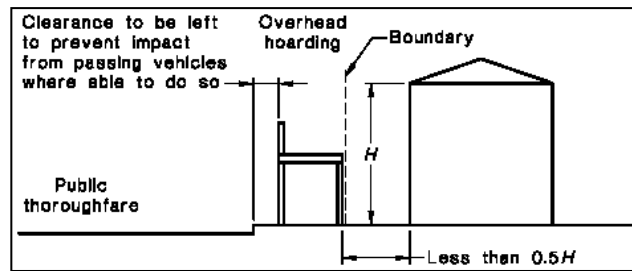


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

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/oheadprotstr ucts.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.

Hoardings on New South Head Road, Kiaora Road and Patterson Street are to have an appropriate graphic design presentation to the street frontages. In this regard the applicant is to confer with Council's Public Art and Cultural Development Officer prior to the erection of such hoardings. The graphic design is to be maintained during the course of building work.

**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.12 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.13 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
- e) allow the use of temporary toilets with holding tanks.

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.14 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.15 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

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

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

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

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

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

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

Standard Condition: D15

## D.16 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.

Standard Condition: D18

## D.17 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

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

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

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

Standard Condition: D19

#### **D.18 Construction noise mitigation measures**

The noise mitigation measures contained in part 6.5 – *Construction noise & vibration control strategies* of the *Noise impact assessment*, by Reverb Acoustics dated November 2011 including barriers at the perimeter of the construction site and/or around construction machinery and the selection of alternate equipment that produces less noise to negate noise emissions from such activities are to be in place prior to the commencement of construction activities.

Attended noise and vibration monitoring is to be carried out at sensitive receivers at the commencement of each process/activity that has the potential to produce excessive noise or vibration.

#### **D.19 Site acoustic barriers/screening**

Prior to the commencement of any works temporary barriers of plywood of a minimum thickness of 20mm and a minimum height of 2100mm shall be erected to the perimeter of the construction site to minimise the impact of the construction noise on the amenity of the neighbourhood. The barriers are to be maintained during the development.

#### **D.20 Consultation/complaints handling procedure**

Prior to the commencement of any works the principal contractor shall put in place a formal consultation and complaints handling procedure to address complaints from the occupants of surrounding properties.

The procedure shall include mechanisms for providing the occupants of surrounding properties with information on the progress of the development and formal notification of noisy activities, a minimum of 48 hours prior to such activities.

A copy of the required procedure shall be submitted to the Council and the Principal Certifying Authority prior to the commencement of any work.

#### **D.21 Noise control measures for construction plant and equipment**

Prior to the commencement of any works a certificate from a *professional engineer* (acoustic engineer) shall be submitted to the Principal Certifying Authority certifying that;

- a) a works schedule has been prepared that identifies all machinery and equipment to be used at the development site; and
- b) the nominated equipment and machinery that will be used at each stage of the development have been fitted with noise control measures to minimise their impact on the surrounding properties.

## **D.22 Roof level – glare**

The colour and texture of materials/finishes to be used at roof level are to be selected to obviate glare. Details of the materials, i.e. shade structures, roofs to travelators, plant rooms, stair and lift roofs, are to be submitted to Council with necessary technical data relating to their glare characteristics. This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.7, C2,

## **D.23 Arcade floor treatment**

Details of the arcade floor treatment are to be submitted to and approved by Council prior to the commencement of building work. This condition is imposed to ensure that the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.5.2, C6, which requires the floor treatment to read as a continuation of the adjacent public spaces, is satisfied.

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

### **E.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 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.  
Standard Condition: E1

### **E.2 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.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan required by condition D.9. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the *PCA* or *Council* on request.

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

### E.4 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.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* 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.6 Acoustic barriers/screening

To minimise the impact of construction noise on the amenity of the neighbourhood the following acoustic measures are to be implemented;

- a) Hoardings are to be erected at all exposed entries of the site acoustic barriers and doorways; and
- b) Acoustic enclosures and screens are to be placed directly adjacent to stationary noise sources such as compressors, generators and the like as required by the construction noise and vibration control strategies of the Noise Impact Assessment by Reverb Acoustics dated November 2011.

### E.7 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 outside the approved hours of work will be considered on a case by case basis.

**Note:** Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 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.8 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 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 times 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.9 Tree preservation and approved landscaping works**

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

## **E.10 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 40mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

**Note:** Trees must be pruned in accordance with Australian Standard AS 4373 – 2007 “Pruning of Amenity Trees” and Workcover NSW Code of Practice Amenity Tree Industry 1998.  
Standard Condition: E8

## E.11 Works within tree root zones

Any works undertaken within the specified radius from the trunks of the following trees (including excavation, changes to levels, soft landscaping, changes to road way surfaces, installation of services and pipes and demolition of existing walls or hard surfaces) must be supervised by the site arborist and carried out in accordance with the recommendations within the submitted tree management plan and tree protection plan. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

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

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

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

Council Ref No:	Species	Location	Radius from Trunk (metres)
1	<i>Quercus robur</i> (English Oak)	Western end of Kiaora lane	10.8 metres
2	<i>Platanus hybrida</i> (London Plane)	Northern side of Patterson street	13.2 metres
3A	<i>Banksia integrifolia</i> (Coast Banksia)	Adjacent to Tree 2	2 metres
7	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson street	13.2 metres
8	<i>Platanus hybrida</i> (London Plane)	Southern side of Patterson Street	12 metres
12	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	4.8 metres
13	<i>Platanus hybrida</i> (London Plane)	Western side of Anderson Street	12 metres
14	<i>Platanus hybrida</i> (London Plane)	Eastern side of Patterson street	13.2 metres
15	<i>Platanus hybrida</i> (London Plane)	Eastern side of Anderson street	14.4 metres
33	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	6 metres
35	<i>Eucalyptus botryoides</i> (Bangalay)	Kiaora Road	7.1 metres
56	<i>Celtis sinensis</i> (Chinese Nettle)	Front garden of 2 Anderson street	5.2 metres
61	<i>Jacaranda mimosifolia</i> (Jacaranda)	Rear garden of 2 Patterson street	7.2 metres
63	<i>Archontophoenix alexandrae</i> (Alexander palm)	Rear garden of 2 Patterson street	1.5 metres

## E.12 Maintenance of Environmental Controls

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

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

**Note:** See [http://www.epa.nsw.gov.au/small\\_business/builders.htm](http://www.epa.nsw.gov.au/small_business/builders.htm) for additional information.  
Standard Condition: E11

## E.13 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

## E.14 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

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

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

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

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

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

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

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

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

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

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

## **E.15 Erosion and Sediment Controls – Maintenance**

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

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

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



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

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

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

Standard Condition: E15

## E.16 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.17 Filling of site

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

*VENM* means “*Virgin excavated natural material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human-made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphidic ores or soils.*”

**Note:** This definition is the same as in Schedule 1 of the *Protection of the Environment Operations Act 1997*, Appendix IX: Types of waste.

**Note:** Sulphidic ores and soils are commonly known as Acid Sulphate Soils.

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

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

**Note:** Additional information is available from the following websites:

**Illegal waste dumping** - <http://www.epa.nsw.gov.au/waste/dumping.htm>

**Is that fill legal?** <http://www.epa.nsw.gov.au/resources/012648web.epa%20fill.dl%20bro.pdf>

Standard Condition: E18

## E.18 Site Cranes

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

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

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

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

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

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

Standard Condition: E19

## E.19 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

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

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

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;

- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

**Note:** This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.  
Standard Condition: E20

## E.20 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.21 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.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:** “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.23 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 February 2012.

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

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

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

### **E.24 Protection of Street Name Inlays**

Any existing street name inlays in the footpath/kerb/gutter adjoining the development site are not to be removed or damaged as a consequence of the development. Appropriate measures are to be undertaken to ensure the protection of the street name inlays at all times during the course of construction. This condition is imposed to preserve the cultural heritage of the Woollahra Municipality.

Standard Condition E30

### **E.25 Food Premises – Construction & Fitout**

The *principal contractor or owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council’s Environmental Health Officers but no less compliant than with the *Food Act* 2003, *Food Regulation* 2004; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

Standard Condition: E29

## **E.26 Site waste minimisation and management – Demolition**

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

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

When implementing the SWMMP the applicant must ensure:

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

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

## **E.27 Site waste minimisation and management – Construction**

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered ‘as needed’ to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly ‘signpost’ the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation



- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
  - k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW
  - l) In order to maximise resource recovery and minimise residual waste from demolition and construction activities at the Kiaora Lands Development Site, the measures outlined in the Waste Management Plan (February 2012) prepared by J D MACDONALD, Waste Management Consultants shall be fully implemented.
  - m) Soil removal from the site shall have regard to the findings outlined in the report titled 'Update of Preliminary Waste Classification - Letter Report for Kiaora Place, Double Bay' (Project 36280.02-2 dated 15 February, 2010) prepared by Douglas Partners.
- Standard Condition: E32

### **E.28 Shoring and adequacy of adjoining property**

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 an excavation that extends below the level of the base of the footings of a building on adjoining land.

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

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

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

Standard Condition: E33

### **E.29 Treatment of carparking floors and ramps to prevent tyre squeal**

The forms of concrete finishing that are effective in controlling tyre squeal such as broom finish, coving trowel, timber float and the like are to be incorporated as part of the car park concrete floors and interconnecting ramps surface finish.

### **E.30 Re-use of stone walling**

Existing stone walling from the Kiaora Road front boundary walls of 1-7 Kiaora Road is to be salvaged and reused on the site as part of the development. A suitable location/s and arrangement for the re-use of the stone are to be to the satisfaction of Council's Heritage Officer.

This condition is imposed with regard to heritage considerations.

### **E.31 Management of Acid Sulphate Soils**

The management options resulting from the disturbance of potential acid sulfate soils detailed in Section 5 'Proposed Acid Sulfate Management Strategy' & Section 6 'Responsibilities' of the report prepared by Douglas Partners titled '*Updated Report on Acid Sulfate Soil Management Plans: Kiaora Place, Double Bay (Project No. DIH:jib36280.02-3, 18 February, 2010)*' being fully implemented during the excavation and construction phase of the development.

## **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

### **F.2 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)**

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building's proposed new use are provided.

**Note:** Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.  
Standard Condition: F3

### **F.3 Fire Safety Certificates**

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

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

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

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

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

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

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

**Note:** In this condition:

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

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

*new building* has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

### **F.4 Compliance Certificate from Sydney Water**

All work must be completed in accordance with the Compliance Certificate under the Sydney Water Act 1994 and the "Notice of Requirements".

**Note:** Please refer to "Your Business" section of Sydney Water's web site at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the "e-developer" icon or telephone 13 20 92.

Standard Condition: F5

## F.5 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.  
Standard Condition: F6

## F.6 Commissioning and Certification of Systems and Works

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

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

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

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

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

**Note:** The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.  
Standard Condition: F7

## F.7 Inspection, Certification and Registration of Regulated Systems

Prior to the issue of any *Occupation Certificate* or occupation or use of part of the building serviced by a *regulated system* the *principal contractor* or *owner builder* must submit to the satisfaction of *PCA* certification by a ‘*competent person*’ that the regulated system as installed can operate as required by Clause 9 of the *Public Health (Microbial Control) Regulation*, 2000.

The owner must register the regulated systems with Council and provide the PCA with evidence of registration pursuant to Clause 15 of the *Public Health (Microbial Control) Regulation, 2000*.

**Note:** *Regulated System* has the same mean as in the Public Health Act 1991.

**Note:** *Competent person* has the same meaning as in Clause 9(3) of the *Public Health (Microbial Control) Regulation, 2000*.

**Note:** The NSW Code of Practice for the Control of Legionnaires' Disease can be down loaded free from:  
[http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires\\_disease.pdf](http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf)  
Standard Condition: F8

## **F.8 Emergency response and evacuation plan**

An emergency response and evacuation plan and procedure complying with AS 3745-2002 - *Emergency control organisation and procedures for buildings, structures and workplaces* must be implemented. The emergency response and evacuation plan and procedure must form part of listed essential fire safety measures subject to the *interim* or *final fire safety certificate* and thence subject to *Annual Fire Safety Certificates*. The emergency response and evacuation plan and procedure must:

- (a) Address, in addition to ordinary risks (fire etc.), the specific risks associated with flooding;
- (b) provide clearly visible flood warning signs in unobstructed areas of all basements and all areas potentially subject to inundations up to the Probable Maximum Flood level and
- (c) ensure that wardens are in the car park when any flood level reaches RL 2.0m AHD, to effect the orderly evacuation of people from the carpark.

The emergency response and evacuation plan and procedure must be submitted to the Director General, New South Wales State Emergency Service and the Commissioner of the NSW Fire Brigades. Any changes requested by these emergency services that are consistent with AS 3745-2002 – *Emergency control organisation and procedures for buildings, structures and workplaces* is to be adopted by the emergency response and evacuation plan and procedure prior to any occupation of the building or the issue of any occupation certificate.

**Note:** AS 3745 sets out the requirements for the development of procedures for the controlled evacuation of buildings, structures and workplaces during emergencies. The AS also establishes guidelines for — (a) the appointment of the emergency planning committee (EPC); (b) the setting up of an emergency control organisation (ECO); (c) the preparation of emergency plans and procedures; (d) the role and authority of ECO personnel while executing their duties; and (e) the requirements of an education and training program. The standard covers emergency situations until the appropriate emergency service arrives to take control, at which time, the ECO will work in conjunction with that service.

## **F.9 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 February 2012.

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

Standard Condition: F9

## F.10 Street Numbering

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

**Note:** Applications for the allocation of street and sole occupancy unit numbers should be made together with any application for a strata certificate or Torrens or community title subdivision certificate. Council will determine at its discretion in accordance with its policy street numbers and street addresses that best suit the public interest.  
Standard Condition: F11

## F.11 Letter Box(es)

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

**Note:** This condition has been imposed to ensure that mail can be delivered to occupiers of the site.  
Standard Condition: F12

## F.12 Food Premises - Inspection and Registration

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

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

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

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

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

"100 Notification of conduct of food businesses

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

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

Standard Condition: F15

## F.13 New Waste Services

No occupation certificate must be issued until the owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved *Waste Management Plan*.

Standard Condition: F19

#### **F.14 Certification regarding compliance with A2.5.3 of the Double Bay Centre Development Control Plan**

Upon completion of the built form of the development, an acoustic assessment shall be undertaken from all identified sensitive receivers to determine compliance or otherwise with A2.5.3 – Built form south of Kiaora Lane of the Double Bay Centre Development Control Plan 2002. The results of the acoustic assessment shall be forwarded to Council including modifications into the design (noise control) where non-compliances are identified.

#### **F.15 Signage**

The illuminated pylon sign on the east elevation (Kiaora Road) is to be located wholly within the boundaries of the site. The four (4) illuminated flush wall signs on the western elevation (the Kiaora Lane/Patterson Street pedestrian link) are to be integrated into one (1) sign as depicted in the photomontage on the photomontage, refer to **nettletontribe** drawing 3109 DA210C.

This condition is imposed to achieve compliance with *State Environmental Planning Policy 64 (Advertising and Signage)* and the *Double Bay Centre Development Control Plan 2002*, part 6.4.6.

#### **F.16 Exhaust from ground floor car park**

Exhaust from the ground floor car park is to comply with AS1668.2-1991, *The use of mechanical ventilation and air conditioning in buildings, Part 2: Mechanical Ventilation for acceptable indoor air quality*, section 3.7.

#### **F.17 Water efficient fixtures and fittings**

Both buildings are to be fitted with 6 star WELS rated fixtures wherever possible. Amendments are required to the Woolworths Sustainable Design Summary to include 6 star WELS in line with the AECOM report. Water efficient fixtures are to be included are:

- 1) Low flow water urinals are to be installed with a minimum 6 star WELS rating
- 2) Low flow toilets are to be installed with a minimum 4 star WELS rating
- 3) Hand wash basin taps to be installed with a minimum 6 star WELS rating
- 4) Kitchen Taps to be installed with a minimum 5 star WELS rating
- 5) Commercial kitchens to be installed with a minimum 3 Star WELS rating
- 6) Dishwashers & washing machines must have a minimum 5 star WELS rating
- 7) Office Showers to be installed with a minimum 3 Star WELS rating.

This condition is imposed having regard to the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.9 *Environmentally sustainable development*.

#### **F.18 Roof lighting**

The design of fixed lighting on the roof level is to comply with AS428 -1997 *Control of the Obtrusive Effects of Outdoor lighting* (urban standards). This condition is imposed to ensure conformity with the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.7, C7.

### **F.19 Acoustic treatment – enclosure of car park ramp**

The carpark ramp is to be fully enclosed as required to meet the noise goal set out in A2.5.3 C11. If necessary, the enclosure is to extend beyond the point where the ramp surface intersects with the upper level carpark floor. Should extension of the enclosure be necessary details are to be submitted to Council and approval prior to the commencement of such works. This condition is imposed to ensure conformity with the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C31.

### **F.20 Acoustic treatment – vehicle ramp between carparking levels**

The walls and ceiling of the vehicle ramp enclosure are to be provided with an appropriately selected and effective fire resistant, sound absorbing facing (an approved acoustical spray, or modular acoustical panels/tiles) to provide an effective reduction of the reverberant characteristics of that area. This condition is imposed to ensure conformity with the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C13.

### **F.21 Acoustic certification**

Prior to the occupation or use of the building or the issue of any occupation certificate, a certificate is to be submitted to the Principal Certifying Authority from a *professional engineer* (acoustic engineer) certifying that all the acoustic and noise control measures identified by the development consent and/or detailed on the construction certificate drawings are in place and achieve the required design objectives.

### **F.22 Electronic vacant car parking space identification**

The carpark is to be equipped with an effective electronic vacant car space identification system through which a driver may more rapidly find an empty car space to minimise the need to circle around the carpark to find where they can park

### **F.23 Carparking Plan of Management – use of roof top carparking spaces**

The Carparking Plan of Management is to include a provision that allows for restrictions to be placed on the night time use of the roof top carparking spaces in the event that the night time use of these carparking spaces creates unreasonable noise nuisances.

### **F.24 Acoustic certification of mechanical plant and equipment**

Prior to the occupation or use of the building or the issue of any occupation certificate, a certificate is to be submitted to the Principal Certifying Authority from a *professional engineer* (acoustic engineer) certifying that the noise level from all mechanical plant and equipment installed in the building measured at any time of the day or night, at the nearest, or at any residential property façade, while the proposed mechanical plant and equipment is operating does not exceed the *nocturnal background noise level*.

The certificate must further certify that the cumulative noise level from all installed items of mechanical plant and equipment, when measure at the same location will not exceed the nocturnal background level by more than 5dB(A) and that all required sound attenuating measures are in place.

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

This condition is imposed to ensure compliance with control C10 of A2.5.3 – ‘Built form south of Kiaora Lane’ of the Double Bay Centre Development Control Plan 2002.

**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)).
3. **The background noise level** is to be measured on a windless Tuesday night which is normally the quietest night of the week. The results of this measure must not be degraded by the noise of passing traffic, or by the noise from vehicles entering or exiting the Anderson Street entry and exit. This may require the background noise level to be measure when the Anderson Street entry and exit is closed.

## **F.25 Directional signage**

Signage is to be displayed as may be required in relation to access to liftwells and stairways or directions to the carpark access points to satisfy the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C3.

## **F.26 Pavement system**

The pavement system is to comply with AS/NZS 4586 *Slip resistance classification of pedestrian surface materials for safety and slip resistance*. This condition is imposed to ensure conformity with the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.5, C3.

## **F.27 Davis Cup plaque**

The existing Davis Cup plaque in Anderson Street is to be retained/relocated on site. The proposed site of the plaque is to be to the satisfaction of Council’s Heritage Officer.

This condition is imposed having regard to heritage considerations.

## **F.28 Lighting for pedestrian ways**

Lighting for pedestrian ways to, from and around the carpark is to conform to the requirements of AS/NZS 1158 *Lighting for roads and public spaces* as required by the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C8.

## **F.29 Car park lighting**

Lighting throughout the car park must conform to the requirements of AS 2890 *Off Street Carparking* and AS 1680.2 *Interior Lighting* as required by the Double Bay Centre Development Control Plan 2002 (amendment 3), A2.5.6, C7.

## **F.30 ‘Old Telephone Exchange’ - interpretive plaque**

An interpretive plaque is to be designed and produced for the site of the ‘Old Telephone Exchange’ building. The plaque is to be of brass with an image of the main building elevation and relevant text with raised lettering. The exact details of the plaque and its location are to be to the satisfaction of Council’s Heritage Officer.



This condition is imposed having regard to heritage considerations.

### **F.31 Civil works design – Kiaora Road/New South Head Road intersection**

That the developer prepare a civil works design to allow three northbound lanes on Kiaora Road, at New South Head Road. The civil works design shall be submitted and approved by RMS. Subject to RMS approval, the new intersection arrangements shall be installed prior to the issuing of the occupation certificate. This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.32 Operational Transport Management Plan**

An Operational Transport Management Plan must be submitted to Council for approval by Council's Manager Engineering Services prior to the issue of the Occupation Certificate. The Plan is to address the following:

- Describe the maximum number and types of trucks required to service the various components of the development
- Describe the hours of operation of the loading docks and the proposed means to ensure no deliveries are received outside of the approved trading hours.
- Describe the management strategy to ensure that at no time are heavy vehicles queued, waiting or parked in the driveway to the loading dock and/ or in surrounding streets
- Describe the routes to be used by the heavy vehicles through the Woollahra Council area
- Heavy vehicles associated with the site are not to utilise Manning Road (south of Patterson Street), Kiaora Road (south of Court Road), Epping Road, Court Road, Forest Road and Bellevue Road
- Describe the means proposed to minimise the impact of heavy vehicles on the local community
- Describe the means proposed to ensure pedestrian safety at the entry and exits from the loading docks
- Describe the means to ensure all heavy vehicles, including delivery and garbage trucks, enter and exit the site in a forwards direction.
- Confirm that the loading dock is to be available for moving/delivery vehicles for the commercial component of the development, as well as the retail components of the development
- Compliance with the Operational Transport Management Plan must form part of any lease with the tenants of the development

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.33 Roundabout – Manning Road/Patterson Street intersection**

The applicant is to pay all costs associated with the design and installation of a roundabout at the intersection of Manning Road and Patterson Street. The roundabout is to incorporate pedestrian access at the splitter islands on the three legs of the intersection. The design of the roundabout is to be undertaken in consultation with the community and submitted and approved by the Woollahra Local Traffic Committee and Council. The installation of the roundabout is to be completed prior to the issue of the occupation certificate.

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.34 Intersection treatment – Kiaora Road/car park and loading dock entrances**

The applicant is to pay all costs associated with the design and installation of an “intersection” treatment on Kiaora Road, at the proposed car park and loading dock entrances. The treatment is to include a right turn lane for southbound vehicles on Kiaora Road to allow them to turn into the car park and to allow heavy vehicles to turn into the loading dock. The treatment is to include a marked pedestrian crossing across the car park and loading zone driveway, with pedestrian refuges between the entrance to the car park/ exit to the car park and the exit to the car park/ entrance to the loading dock. Appropriate linemarking will need to be installed to accommodate the two left turning lanes from the Kiaora Road exit. The design of the intersection treatment is to be undertaken in consultation with the community and submitted and approved by the Woollahra Local Traffic Committee and Council. The installation of the intersection treatment is to be completed prior to the issue of the occupation certificate.

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.35 “Stop – Give Way to Pedestrians” signage**

“Stop – Give Way to Pedestrians” signage is to be installed at all carpark and loading dock exits.

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.36 “Form 1 Lane” signage**

“Form 1 Lane” (g9-15) signage is to be installed at the Patterson Street car park exit.

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.37 Installation of dynamic/live smart signage**

The applicant is to install dynamic/ live smart signage which indicates when the car park is full. These dynamic/live smart signs are to be installed at the three proposed car park entrances and at the intersections of New South Head Road/ Kiaora Road and New South Head Road/ Manning Road. Details are to be submitted for approval by Council’s Technical Services Division.

This condition is imposed with regard to traffic related impacts of the proposed development.

### **F.38 End of Ride bike facilities**

End of Ride bike facilities in the form of lockers, showers and change facilities must be provided within the staff facilities for the library and Woolworths. Alternatively, lockers, showers and change facilities must be provided for staff elsewhere within the development.

This condition is imposed to encourage the use of transport other than by private motor vehicle.

### **F.39 Green transport access guide**

A green transport access guide is to be developed to highlight to staff the available public transport, walking and cycling options for travelling to the site. The green transport access guide is to be suitable for publication on the internet and provided in brochure format for handing out to employees at the site. This is to be submitted to Council for approval by the Manager Engineering Services prior to the issue of the Occupation Certificate.

This condition is imposed to encourage the use of transport other than by private motor vehicle.

### **F.40 Street lighting**

The applicant is to upgrade the street lighting in New South Head Road, Kiaora Lane, Kiaora Road, Patterson Street and Anderson Street, adjacent to the site, to the Australian Standard. The lighting is to be upgraded prior to the issue of the occupation certificate. Details of lighting are to be submitted for approval by Council's Technical Services Division.

### **F.41 Occupation of stage 1 businesses**

Prior to the occupation of any businesses within stage 1 of the development the public carpark is to be open for use by the public. This condition is imposed to reduce the impact on the loss of public parking during the construction phase of the development.

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

### **G.1 Electricity Substations – Dedication as road and/or easements for access**

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

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

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

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

Standard Condition: G4

## **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.

**Note:** This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the *Final Occupation Certificate*.  
Standard Condition: H9

### **H.2 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

### **H.3 Road Works (including footpaths)**

The following works must be completed to the satisfaction of Council, in accordance with the *Roads Act 1993* approvals and comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" dated February 2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

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

**Note:** Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or obtained from Council's customer service centre.  
Standard Condition: H13

#### **H.4 Dilapidation Report for public infrastructure works**

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

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

The dilapidation report must include:

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

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

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

**Note:** If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.  
Standard Condition: H14

### **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.

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.  
Standard Condition: I8

## I.2 Operation of Regulated Systems

The occupier must operate *regulated systems* in compliance with Clause 9 of the Public Health (Microbial Control) Regulation, 2000.

Where there is any change in the regulated system the occupier must register the changes in the *regulated systems* with Council pursuant to Clause 15 of the *Public Health (Microbial Control) Regulation*, 2000.

Water cooling system must be certified by a *competent person* annually as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

This condition has been imposed to ensure public health.

**Note:** *Regulated System* has the same mean as in the *Public Health Act 1991*. *Competent person* has the same meaning as in Clause 9(3) of the Public Health (Microbial Control) Regulation, 2000. The *NSW Code of Practice for the Control of Legionnaires’ Disease* can be down loaded free from:  
[http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires\\_disease.pdf](http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf).  
Standard Condition: II1

## I.3 On-going maintenance of the on-site-detention system

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

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this and any positive covenant;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this condition within the time reasonably stated in the notice;

- i) Where the Owner fails to comply with the Owner's obligations under this and any other positive covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

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

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

Standard Condition: I12

#### **I.4 Waste Management - Commercial**

The owner and/or occupier must comply with the approved Waste Management Plan prepared by JD MacDonald (dated February 2012) and with Council's Site Waste Minimisation and Management Development Control Plan 2010.

Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the Local Government Act 1993 or the Roads Act 1993 and subject that all conditions of such approval(s) are complied with.

This condition has been imposed to ensure that the provisions of the approved Waste Management Plan and of Council's Site Waste Minimisation and Management Development Control Plan 2010 are complied with during the ongoing operations of the development.

**Note:** No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.

Standard Condition: I15

#### **I.5 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

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

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

Standard Condition: I22

#### **I.6 Emergency response and evacuation plan- compliance & review**

Occupation and use of the development must be in accordance with the emergency response and evacuation plan and procedure.

The emergency response and evacuation plan and procedure must be reviewed and, if necessary, updated at each annual meeting of the *emergency planning committee* constituted under AS 3745-2002 - *Emergency control organisation and procedures for buildings, structures and workplaces*. The emergency response and evacuation plan and procedure must form part of the listed *essential fire safety measures* subject to *Annual Fire Safety Certificates*.

Any amended emergency response and evacuation plan and procedure must be submitted to the Director General, New South Wales State Emergency Service and the Commissioner of the NSW Fire Brigades. Any changes requested by these emergency services that are consistent with AS 3745-2002 – *Emergency control organisation and procedures for buildings, structures and workplaces* must be adopted by the emergency response and evacuation plan and procedure prior to implementation of the amended emergency response and evacuation plan and procedure.

**Note:** The emergency response and evacuation plan and is the primary mechanism for the protection of life and safety.

### **I.7 Removal of Graffiti**

All graffiti must be removed or obliterated from buildings and fences within 72 hours.

This condition has been imposed to ensure the quality of our urban environment is not degraded by the accumulation of graffiti.

**Note:** Procedures for working with graffiti are contained in a special training program available from the Master Painters Australia NSW Association Inc. See: <http://www.masterpainters.com.au/>  
Standard Condition: I26

### **I.8 Storage and handling of flammable and combustible liquids**

The storage and handling of flammable and combustible liquids must be in accordance with AS1940-2004 - *The storage and handling of flammable and combustible liquids*.

This condition has been imposed to protect public safety.  
Standard Condition: I27

### **I.9 Installation/operation of LPG facility**

The installation and operation of the LPG facility must be in accordance with AS 1596:1997 - *Storage and handling of LP Gas*.

This condition has been imposed to protect public safety.  
Standard Condition: I28

### **I.10 Food Premises - Maintenance of Food Premises**

The food premises must be maintained in accordance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health.



**Note:** The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this *Act*, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).  
Standard Condition: I30

### I.11 Outdoor lighting – Commercial

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.

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

**Note:** Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.  
Standard Condition: I43

### I.12 Noise Control

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

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

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

#### Useful links:

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

**New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

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

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

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50

### I.13 Maintenance of Sound Attenuation

Sound attenuation measures must be maintained in accordance with the Noise Impact Assessment prepared by Reverb Acoustics and dated November 2011.

Standard Condition: I51

#### **I.14 Noise from mechanical plant and equipment**

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

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

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.

Standard Condition: I53

#### **I.15 Noise – rooftop car park**

The rooftop carpark is to be operated in a manner which prevents noise impact on surrounding residential properties. This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.6, C30.

#### **I.16 Noise – loading dock doors**

The loading dock doors are to operate so that their noise emission components when either opening or closing are no more than 5dB(A) above the background sound level when measured at the façade of the nearest, or any other residential property. This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.6, C20.

#### **I.17 Noise – external pipes, vents, fans or other items of plant**

Noise associated with external pipes, vents, fans or other items of plant must be less than the relevant background sound level at the façade of the nearest of any other residential property. All such plant is to be located as far away as possible from residential properties. In the event that pipes, high velocity air discharge outlets or other pipe work are installed on the face of the building or extend through the rooftop, those outlets must be equipped with acoustically effective discharge silencers and have their directional discharge pointing in a north-westerly direction. This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.3, C12.

#### **I.18 Noise – use of the premises**

The use of the premises must not give rise to noise which exceeds the relevant nocturnal background sound levels by more than 5dB(A) when measured at the façade of the nearest, or any other residential premises. This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.3, C11.

### **I.19 Noise – mechanical plant**

All mechanical plant is to operate so that at any time of the day or night its noise emission component, when measured at the nearest or at any other residential property façade, must not exceed the nocturnal background level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location must not exceed the nocturnal background level by more than 5dB(A). This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.3, C10.

**Note:** The background noise level is to be measured on a windless Tuesday night which is normally the quietest night of the week. The results of this measurement must not be degraded by the noise of passing traffic, or by the noise from vehicles entering, or exiting the Anderson Street entry and exit. This may require the background noise level to be measured when the Anderson Street entry and exit is closed.

### **I.20 Compliance with the Noise Management Plan (NMP) for operation of the development**

The development being operated in accordance with the NMP contained in the *Addendum to Reverb Acoustics report 11-1605-R1* dated 1/3/12 with the exception of the reference in the 1<sup>st</sup> dot point under *General* regarding the trading period.

### **I.21 Trading hours**

Trading hours are limited to:

Woolworths supermarket

Monday to Sunday: 7am – 12am (midnight)

Dan Murphys

Monday to Sunday: 9am – 10pm

Thomas Dux

Monday to Sunday: 7am – 10pm

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading including, but not limited to, external impacts associated with clients attending the site for business or otherwise.

**Note:** This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I2

### **I.22 Loading dock operating times**

Loading docks are to be used only between the hours of 7am – 10pm. Loading docks are only to be used for waste collection between the hours of 7am – 6pm.

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading.

**Note:** This condition does not restrict the operation of noise pollution laws.

### **I.23 Shopping trolleys**

All shopping trolleys used in the development must operate with a 'containment system' that prevents the shopping trolleys from being removed for the site.

The use of shopping trolley tractors or other mechanical devices is not permitted within the carpark areas of the development after 10.00pm and before 7.00am on any day. During these times the collection of shopping trolleys is limited to manual collection by hand only.

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

### **I.24 Operational requirements of the loading docks**

The loading docks associated with the development are to comply with the following requirements at all times;

- a) All vehicles are to enter and exit the loading docks in a forward direction. Vehicles are only permitted to reverse inside the loading docks when the loading dock door is fully closed.
- b) The loading dock doors are only to be open as vehicles enter and exit the loading docks. At all other times the loading dock doors are to be closed.

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

### **I.25 Compliance with the waste management plan**

Waste management is to conform with the *Waste management plan*, prepared by JD McDonald dated February 2012, including the recommendations of that plan, with the exception that waste from retail outlets on the ground floor are to be collected from the refuse room in the loading dock and not from Kiaora Lane.

### **I.26 Car park and loading dock operations – compliance with the *Kiaora Lands Redevelopment – Car Park and Loading Area Management Plan***

The car park and loading docks are to be operated in accordance with the *Kiaora Lands Redevelopment – Car Park and Loading Area Management Plan*, which is appendix B of the *Traffic Report* by Halcrow dated 19/10/11. This Plan allows the operator of the car park to restrict the use of the roof generally and by motorbikes in particular.

The loading docks are not to be used outside the hours of 7am to 10pm Monday to Sunday.

### **I.27 Use of the loading dock off Patterson Street (the Dan Murphys loading dock)**

The loading dock located off Patterson Street is to be used by fixed rigid vehicles only (i.e. not semi-trailers). This condition is imposed with regard to the Double Bay Centre Development Control Plan 2002 (amendment 3) A2.5.6, C12.

### **I.28 Anderson Street entrance/exit**

The Anderson Street entrance and exit to the car park is to be closed outside of the hours of 7am to 9pm Monday to Sunday.

This condition is imposed with regard to traffic and residential amenity considerations.

## **I.29 Loading dock availability**

The loading dock is to be available for moving/delivery vehicles for the commercial component of the development, as well as the retail components of the development.

## **J. Miscellaneous Conditions**

Nil

## **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 Commonwealth Disability Discrimination Act 1992 (“DDA”)

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council’s Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>
- b) [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send an email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3

### K.4 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.5 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.

Standard Condition: K5

## **K.6 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.7 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.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 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.10 Dividing Fences

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

**Note:** Further information can be obtained from the NSW Department of Lands - <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.  
Standard Advising: K10

## K.11 Free Parking Area Agreement

Where there is a potential for the trespass of private motor vehicles upon private parking servicing the owner of the site may seek to enter into a free parking area agreement with Council. Council may under such agreement enforce parking restrictions under section 650 of the *Local Government Act* 1993.



Further information can be obtained from Council's Manager Compliance and from the Department of Local Government: <http://www.dlg.nsw.gov.au/Files/Information/parking>  
Standard Advising: K11

### **K.12 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.13 Decommissioning of refrigeration or air conditioning equipment**

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person *under* the *Ozone Protection Act* 1989, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation* 1997.

Standard Advising: K13

### **K.14 Appeal**

Council is prepared to discuss this decisions and, in this regard, please do not hesitate to contact Peter Kauter, Executive Planner, on (02) 93917156.

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.15 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 been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

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

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

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

**Note:** The 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.16 Public Art**

That an appropriate amount be spent on commissioning a public art project to be included and displayed within the development. The applicant is advised to consult with Council's Public Art and Cultural Development Officer.

Standard Condition: K16

### **K.17 Recycling of Demolition and Building Material**

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

Standard Condition: K17

### **K.18 Pruning or Removing a Tree Growing on Private Property**

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

### **K.19 Compliance with the Building Code of Australia**

Preliminary assessment of the development application drawings indicates that the proposal may not comply with the following sections of the *Building Code of Australia*:

- a) Part 3.3.4 - Weatherproofing of masonry
- b) Part 3.4.1 - Sub floor ventilation
- c) Part 3.7 - Fire safety
  - Part 3.7.1 Fire separation
  - Part 3.7.2 Smoke alarms
  - Part 3.7.3 Heating appliances
- d) Part 3.8 - Health and amenity
  - Part 3.8.1 Wet areas
  - Part 3.8.3 Facilities
  - Part 3.8.4 Light
  - Part 3.8.5 Ventilation

- Part 3.8.6 Sound insulation
- e) Part 3.9 - Safe movement and access
  - Part 3.9.1 Stair construction
  - Part 3.9.2 Balustrades

**Note:** There must be no removal of heritage building fabric unless expressly authorised under this consent where compliance with the BCA cannot be achieved without work not authorised under this consent application to amend this consent is required.

Standard Condition: K20

## **K.20 Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

Standard Condition: K21

## **K.21 Encroachments**

It is noted that there is an encroachment by the building over Council's road reserve. While in this case the encroachments are only minor, Council may at some future date require its removal or formalisation.

Standard Condition: K22

## **K.22 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 request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23

## **K.23 Roads Act Application**

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

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

- Public domain improvement works

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* for these works.

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*. 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 slab and footpath levels for any variations.

**Note:** any adjustments required from the ground level carpark slab and the street levels are to be carried out internally on private property.

Drainage design works must comply with the Council’s draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and

Temporary ground anchors may be permitted, in accordance with Council’s “*Rock Anchor Policy*”.

All public domain works must comply with Council’s “*Specification for Roadworks, Drainage and Miscellaneous Works*” dated February 2012 unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) .

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

**Note:** When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

**Note:** The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.  
Standard Advising: K24

## **K.24 Bicycle facilities**

The applicant is advised to consider incorporating bicycle storage and ‘end-of-ride’ facilities into the development consistent with Council’s adopted Woollahra Bicycle Strategy 2009.

## **K.25 Fire safety**

The BCA Logic report in the Development Application lists non compliances with the deemed-to-satisfy provisions of the BCA. It proposes that an alternative solution will have to be commissioned. The fire engineered alternative solution must comply with the relevant performance requirements of the BCA. The A1 accredited principle certifier appointed for the job will have to review and determine if the alternative solution complies prior the issuance of a Construction Certificate.

## **K.26 RMS’s comments regarding further large scale development in Double Bay**

The Council’s attention is directed to the following comments in RMS’s letter dated 16/5/12 regarding further large scale development in Double Bay.

*RMS notes the limited capacity of the existing signalised intersection on New South Head Road to cater for further large scale development. RMS recommends Council give consideration to preparing a Local Area Traffic Management Plan to address access management issues and identify alternative strategies to actively manage traffic generated by future developments in the Double Bay precinct.*

## **K.27 Public parking during the construction phase**

The applicant is advised to consider/implement means by which the impact on local businesses due to the loss of public parking during the construction phase of the development may be mitigated.

Mr P Kauter  
Executive Planner

Mr A Coker  
Director-Planning & Development

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## ANNEXURES

1. Plans (architectural)
  - 1A. Shadow diagrams
2. Internal Referral Response – Development Engineer 28/3/12
  - 2A. Memorandum – Manager-Engineering Services 18/5/12
  - 2B. Memorandum – Manager-Engineering Services 9/1/12
3. Internal Referral Response – Landscaping Officer 12/1/12
4. Internal Referral Response – Environmental Health Officer 31/1/12
  - 4A. Internal Referral Response – Environmental Health Officer 26/3/12
  - 4B. Internal Referral Response – Environmental Health Officer 23/4/12
  - 4C. Internal Referral Response – Environmental Health Officer 23/4/12
5. Internal Referral Response – Heritage Officer 10/2/12
6. Internal Referral Response – Urban Design Planner (Hassell) January 2012
7. Internal Referral Response – Fire Safety Officer 12/12/11
8. Internal Referral Response – Community Services 19/1/12
9. Internal Referral Response – Manager-Civil Operations 22/12/11
10. Internal Referral Response – Compliance Officer 26/3/12
  - 10A. Internal Referral Response – Team Leader Environment and Sustainability 30/1/12
11. External Referral Response – NSW Police
12. External Referral Response – RMS letter 15/2/12 (received via email 29/3/12)
  - 12A. External Referral Response – RMS letter 16/5/12