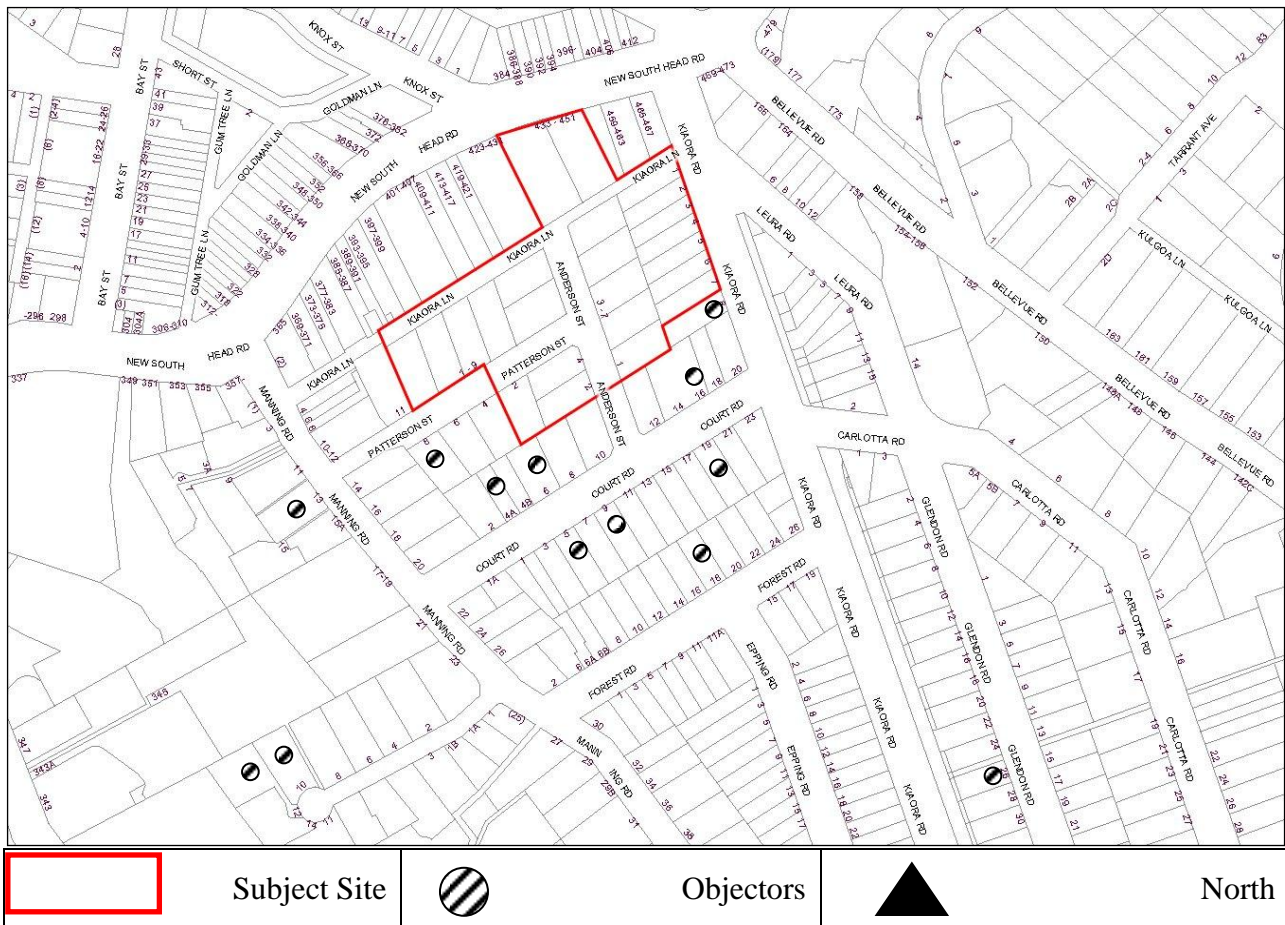


SECTION 96 APPLICATION ASSESSMENT REPORT

ITEM No.	
FILE No.	2012SYE098 (DA 531/2011/2)
ADDRESS:	Kiaora Lands, Double Bay [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]
EXISTING CONSENT:	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.
TYPE OF CONSENT:	Local/integrated
DATE OF CONSENT:	27/6/12
PROPOSED MODIFICATION:	Modify and/or delete a number of consent conditions and changes to carparking circulation, weather protection, roof level travelator/lift lobby, supermarket layout, additional trolley bays, ESD measures, relocation of sub-stations, amended landscaping and security.
DATE S96 LODGED:	03/10/2012 15/10/2012 (amended application)
CONSENT AUTHORITY	Sydney East Joint Regional Planning Panel (Regional Panel)
APPLICANT:	The Planning Group (TPG)
OWNER:	Woollahra Municipal Council Woolworths Ltd Woolworths Properties Pty Ltd Fabcot Pty Ltd
AUTHOR:	Mr P Kauter

LOCALITY PLAN



NOTE: not all of the objector's properties could be shown on the map.

- 16 Holland Rd, Bellevue Hill
- 48 Carlotta Road, Double Bay
- 9 Wiston Gardens, Double Bay
- 108 Jersey Road, Woollahra
- 14-16 Wallaroy Road, Woollahra
- Double Bay Resident's Group
- Moody & Doyle Pty Ltd

1. SUMMARY

Reason for report

A report is required to the Regional Panel as, under the *Environmental Planning and Assessment Act 1979* (the Act), s.23G(2), the functions of a Regional Panel include any consent authority functions of a council as conferred by an environmental planning instrument. *State Environmental Planning Policy (State and Regional Development) 2011* (State and Regional Development SEPP), cl.21, provides that a Regional Panel may exercise a council's consent authority functions in respect of modification applications where a consent was previously granted by the Panel. This includes applications under s.96(2) of the Act.

The consent for the Kiaora Lands DA was granted by the Regional Panel and this modification application has been made under s.96(2) of the Act.

Issues

- provisions of the *Double Bay Centre Development Control Plan* (Double Bay Centre DCP)
- traffic
- noise
- matters raised in submissions
- applicant's justifications

Objections

The application was advertised and notified from 24/10/12 to 6/11/12 as required by the *Environmental Planning and Assessment Regulation 2000* (Regulation), cl.119(2). Twenty two (22) objections were received including one (1) objection/petition with 35 signatories.

The objections mainly raise concerns that if the changes to consent conditions sought by the applicant are allowed the amenity of surrounding residents will be adversely affected particularly with regard to noise and traffic related conditions.

The matters raised in the objections are considered in the assessment of each of the applicant's requested changes. Details of the objections is contained in Part 9 of this report.

Recommendation

Approval of the s.96(2) application is recommended. However, not all the applicant's requested changes are supported and some are only supported with qualifications. Part 9 of this report includes a table/matrix which summarises which of the applicant's requests that are either supported, supported with qualifications or which are not supported.

2. DESCRIPTION OF APPROVED PROPOSAL

The approved proposal is for:

- Demolition of existing buildings and structures and remediation works
- Construction of a new 4 storey building on 433-451 New South Head Road (the New South Head Road building) accommodating retail, commercial and public library uses
- Construction of a 3 level building on the remainder of the land with a frontage to the southern side of Kiaora Lane (the Kiaora Lane building) accommodating carparking, grocer, speciality shops and delivery docks on the ground floor, supermarket, liquor store and commercial offices on the 1st floor and carparking on the roof (total 446 parking spaces)
- Signage
- Civil works including a 'shared zone' on Kiaora Lane and a public plaza
- Landscaping

3. DESCRIPTION OF PROPOSED MODIFICATION

The proposed modifications are for changes to the design of the buildings and for changes to and/or deletion of a number of consent conditions.

Design changes mainly relate to the Kiaora Lane building and are shown on amended plans submitted as part of the modification application. They comprise:

- The layout of carparking on the ground and roof to allow two-way movement in all aisles with a total number of parking spaces being 4 less than the approval, i.e. 442 spaces now proposed compared to 446 spaces approved
- Weather protection to the roof level carparking area with the height of the main, central shade structure being increased by 250mm, i.e. the proposed overall height will be RL15.85 compared to the approved RL15.6
- Integration of the travelator and lift lobby areas at the roof level
- Various changes to the internal layout of the supermarket
- Redistribution of trolley bays throughout the ground and roof level carparking areas
- Inclusion of Ecologically Sustainable Development (ESD) measures such as photovoltaic cells on the roof of the travelator lobby
- Relocation of electricity sub-stations from the public plaza and pedestrian link at the western end of the development to the southern end of the development adjacent to Anderson Street
- Alterations to the landscaping at the western end of the development and on the 1st floor
- Security measures to restrict out-of-hours access to the supermarket and liquor store

The plans submitted with this s.96(2) modification application, with the amendments shown by clouding, are attached as Annexure 1.

Changes/deletion of the following consent conditions is sought:

- A3 Approved plans & supporting documentation – the application seeks to change the condition by making reference to the amended plans which incorporate the design changes described above
- A5(h) Traffic generating development (delete condition)
- B1 Prior to demolition of any building or construction
- C Conditions which must be satisfied prior to the issue of any construction certificate (heading)
- C1 Modification of details of the development (s80(1)(g) of the Act)
- C3 Certification of gross floor area
- C4 Roads and public domain works
- C6 Utility services generally
- C7 Provision of energy supplies
- C17 Parking facilities
- C18 Relocation or reconstruction of Council's stormwater drainage system
- C26 Amended stormwater drainage plan
- C28 Detail for office plant space, gas heating ventilation and air conditioning (delete condition)
- D9 Construction management plan
- E7 Hours of work-amenity of neighbourhood
- E17 Filling of site
- F20 Acoustic treatment -vehicle ramp between carparking levels (delete condition)
- F22 Electronic vacant car parking space identification (delete condition)
- F33 Traffic calming device - Manning Road/Patterson Street intersection (delete condition);
- F34 Intersection treatment- Kiaora Road/car park and loading dock entrances
- F37 Installation of dynamic/live smart signage (delete condition)

- F40 Street lighting
- F42 Roof top car parking - acoustic treatment (delete condition)
- I14 Noise from mechanical plant and equipment (delete condition)

Regarding the conditions which are proposed to be changed, details of the changes are included in the assessment part of this report.

The modification application is accompanied by amended plans and a Statement of Environmental Effects (SEE) prepared by The Planning Group and dated September 2012. The SEE includes:

- Annexure B – Traffic response consisting of a letter from GTA Consultants dated 18/6/12
- Annexure C – Acoustic response consisting of a letter from Reverb Acoustics dated 26/8/12

The SEE includes the following statement under part 2.2, The Proposed Modification:

The purpose of this modification is to allow for the following works to be implemented in the initial phase of site development:

- *Demolition;*
- *Piling;*
- *Installation of in-ground services within the site; and*
- *Ground floor slab construction.*

Fabcot has reviewed the design of the project and seeks to implement a number of refinements which are both improvements to future users and represent cost efficiencies following tendering of the project with builders. There are a number of planning grounds and justifications for seeking changes to conditions.

In addition, Fabcot has evaluated where a condition adds unnecessary costs to the project and therefore falls outside the agreed contractual arrangements with Council, whilst at the same time does not mitigate a perceived impact. As such the condition is either proposed to be deleted or amended. This application seeks to ensure that the finely balanced budgeted cost of the project remains on track and within the agreement already executed between Council and Fabcot.

It should be noted that a number of conditions were recommended for imposition by Council to the JRPP without adequate consultation with the applicant.

The SEE itemises 26 requested changes proposed by the modification application.

4. DESCRIPTION OF SITE AND LOCALITY

The site is located in the southern part of the Double Bay commercial centre. It comprises an irregular shaped site of 14,040.1m² with frontages to New South Head Road, Kiaora Road, Kiaora Lane, Patterson Street and Anderson Street. The land is currently occupied by a supermarket, public carparks, vacant dwellings, a vacant RFB, roadways (parts of Anderson Street, Patterson Street and Kiaora Lane) and a commercial building accommodating an auction room.

The locality comprises the southern part of the Double Bay commercial area. Areas to the south, east and west are generally characterised by residential development comprising a mixture of single

dwelling, and low to medium rise RFBs. Development to the north is primarily retail, commercial and mixed use (residential).

5. PROPERTY HISTORY

Woollahra Local Environmental Plan 1979 amendment 67 (WLEP) was gazetted on 10/6/11. The amendments related to the Kiaora Lands site and introduced changes to land use zonings, height and floor space ratio (FSR) standards. Its gazettal also brought into effect the *Double Bay Centre Development Control Plan (amendment no. 3)* which made changes to planning controls for the Kiaora Lands site including the introduction of a new Appendix 2 – Kiaora Lands.

The parent DA to the current modification application was approved, subject to conditions, by the Regional Panel on 14/6/12.

6. REFERRALS

6.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Development Engineer	<p>A referral response dated 26/10/12 was received from Council's Development Engineer. It incorporates site drainage comments and was accompanied by a memorandum from Council's Manager-Development Services.</p> <p>In summary, the referral response:</p> <ul style="list-style-type: none"> • does not support requested changes 12 (condition C.17), 13 (condition C.18), 14 (condition C.26), 18 (condition F.33) and 26 (condition D.9) • supports, with qualifications, requested changes 7 (condition C.1n)), 9 (condition C.4a), 19 (condition F.34), 20 (condition F.37) and 21 (condition F.40) 	2
Environmental Health Officer	<p>A referral response dated 12/11/12 was received from Council's Senior Environmental Health Officer. It comments on acoustic and contamination aspects of the s.96(2) application.</p> <p>In summary, the referral response:</p> <ul style="list-style-type: none"> • does not support requested changes 22 (condition F.42) and 24 (condition E.7) • supports, with qualification, requested changes 5 (condition C.11) and 16 (condition F.20), • supports requested changes 17 (condition F.22), 25 (condition E.17) and 23 (condition I.14) 	3

6.2 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>	<i>Due to the similar size and scale of the modification to the original, Sydney Water has no further comment at this stage.</i>

EXTERNAL REFERRALS		
External Referral Body	Reason for referral	Comment
Roads & Maritime Services	State Environmental Planning Policy (Infrastructure) 2007, cl.104	No response received

7. ASSESSMENT UNDER S96

7.1 S96 (1) Correction of minor error, misdescription or miscalculation

Not applicable.

7.2 S96 (1A) Modification involving minimal environmental impact

Not applicable. Although it is considered that some of the changes sought by the s.96(2) modification application would, by themselves, be suitable for consideration under s.96(1A). However, collectively it would be inappropriate to categorise the proposed changes as involving minor environmental impact.

7.3 S96 (2) Other modifications

As the proposal does not fit within the s.96(1) or s.96(1A) categories it is a modification under s.96(2). The applicant has submitted the application under s.96(2).

7.4 Substantially the same development

It is considered that the development would, if the consent was modified as proposed by this application, be substantially the same development as the development for which consent was originally granted.

There has been no other modification of the original consent.

7.5 S96 (2) (b) Consultation with Minister, public authority or approval body

NSW Office of Water is an approval body due to the provisions of the Water Management Act 2000. In relation to the original DA it advised that an authorisation for ground water removal was not required at that time. We have consulted with the NSW Office of Water on the modification application. They advised by email dated 31/10/12:

Due to the similar size and scale of the modification to the original, Sydney Water has no further comments at this stage.

Roads & Maritime Services was not a concurrence authority or an approval body for the DA. However, as they were required to be consulted in relation to the DA under the Infrastructure SEPP and as the modification application requests that a condition imposed on the consent as a consequence of that consultation be deleted, we have consulted with them on the modification application. No response was received from RMS within the required 21 day period.

7.6 Threatened species

Not applicable.

8. ASSESSMENT OF CHANGES PROPOSED BY THE MODIFICATION APPLICATION

This part of the report looks at each of the 26 requested changes that are the subject of the modification application as set out in the applicant's SEE. The applicant's justification is provided for each requested change as is any relevant referral response comments. Reference is also made to matters referred to in s.79C(1) of the Act which are of relevance to the development.

8.1 Requested Change 1 – approved plans and supporting documentation

It is requested that Condition A.3 be amended by the inclusion of drawings to amend the approved drawing set as follows:

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.

Condition A.3 includes a lengthy table which contains a reference to each of the plans and other documents which form part of the consent. The plans referred to in the table include Architectural Plans prepared by **nettletontribe**. The modification application seeks to include reference to a number of additional amended architectural plans. The additional amended architectural plans provide for the following changes which predominantly apply to the supermarket, or Kiaora Lane, building:

8.1.1 Carparking layout – the amendments include 2 way vehicle movements in all aisles on the ground level; relocation of motor cycle spaces on the ground level (from the south eastern corner to the southern part of the carpark to the east of the Anderson Street exit); a reduction in the number of parking spaces on the ground level by 3 (from 174 to 171); change of use of a general store room to a switch room on the ground floor; widening the aisles on the first floor; and, a reduction in the number of parking spaces on the first floor by 1 (from 272 to 271). The total number of car parking spaces will be reduced by 4 from 446 to 442.

This change is illustrated on drawings 3109_DA_011-E and 3109_DA_013-E, see Annexure 1.

Justification

- *As part of the design development for the Construction Certificate, the car parking layout has been refined on the ground floor level and roof level, to allow for two-way movement in all aisles so as not to confuse users and to avoid car parking conflicts when operational. The design has been amended in a manner so as to be consistent with the relevant Australian Standard and as such will be consistent*

with condition C.17 Parking Facilities. Total number of car parking spaces now 171 at ground floor level and 190 at the roof level.

Assessment

Council's Manager-Engineering Services has raised no issues regarding the proposed changes (see **Annexure 2**). Under *Other Comments* she notes that the plans still show Anderson Street having an entrance and an exit and that the Regional Panel's approval was subject to Anderson Street having an exit only. In this regard condition I.32, which restricts the Anderson Street vehicular opening to exit movements only, will still apply and is not the subject of this modification application. Also, the SEE states:

It should be noted that the indicated changes in the drawings do not include design elements which are required to be changed as a result of other conditions of consent. These will be implemented at the Construction Certificate stage.

Planning controls related to this requested change include the Infrastructure SEPP, the Double Bay Centre DCP, part 6.7.2 and the Parking DCP.

Regarding the specific matters for consideration under the Infrastructure SEPP, cl.104, Roads & Maritime Services (RMS) has been consulted and no response was received within the required 21 day period. Accessibility to the site and the potential for traffic safety, road congestion or parking implications are not considered to arise as a consequence of this amendment.

Regarding the Double Bay Centre DCP and the Parking DCP, numeric shortfalls in the number of parking spaces was acknowledged and accepted in relation to the original DA. Strictly applying the parking generation rates of those DCPs was not considered to give an accurate assessment of the parking implications of the development. It was also considered that the mix of uses meant there would be a complimentary use of parking spaces with different peak parking demand times. Also there was a likelihood of multiple purpose trips particularly associated with the library. These factors are still considered to be relevant concerning the proposed reduction in the overall number of parking spaces.

The proposed changes to the carparking layout are likely to improve vehicular circulation and are generally considered to be satisfactory.

8.1.2 Weather protection – the covered area of the roof level carpark has been slightly increased. The area covered by the central, framed, weather protective covering has been increased while the adjoining travelator/lift lobby enclosure has been reduced in width. The setback of the weather protective covering from the southern boundary of approximately 46m is unchanged. The height of the weather protective covering has been increased by 0.25m with the overall height being RL15.85 compared to the approved height of 15.60.

This change is illustrated on drawing 3109_DA_014-G, see Annexure 1.

Justification

To provide an improved level of all weather protection to cars and users for parking and circulating at the roof level car parking area, with the proportion of covered area having been increased. This can also assist with improved acoustic containment at the roof level.

Assessment

The slight increase in area of the weather protective covering will provide some improved amenity for users of the carpark. No information has been submitted regarding improved acoustic containment. Any improvement is likely to be imperceptible.

WLEP Amendment 67 introduced a 13m height limit for the Kiaora Lane building. The increase in height of 0.25m will result in the structure partly exceeding the 13m limit by the same height, i.e by 0.25m. Under s.96 a consent can be modified in a manner which would breach a development standard without the need for an objection under *State Environmental Planning Policy Number 1 - Development Standards* (SEPP 1). However, the objectives of the height control standard need to be considered. These are contained in cl.12AA of the WLEP and are as follows:

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.*

The structure has a curved roof supported on a metal frame. The upper part of the roof is the section which will exceed 13m in height. The section of the structure that will exceed 13m will not impact on existing views from the public or private domains, will maintain compatibility with the adjoining residential neighbourhood and will not exacerbate impacts on sunlight and overshadowing. As such the height of the structure is considered to satisfy the objectives of the height standard.

Under the Double Bay Centre DCP sections A2.5.2 Height, and A2.5.7 Roof design, are relevant.

Section A2.5.2 provides that the height of building envelope is indicated on the control drawings in section A2.4. Section A2.4 includes diagrams for edge conditions which, in relation to the Kiaora Lane building, make reference to a 13m height limit. There are no specific objectives under the Double Bay Centre DCP regarding height. The earlier comments in relation to the height control objectives under WLEP are therefore considered to similarly apply to A2.5.2.

The proposed altered weather protective covering and roof would be consistent with the principles and controls under A2.5.7 which are directed at reducing potential visual and amenity impacts of roof top parking.

The proposed changes to the weather protection are considered to be satisfactory.

8.1.3 Roof level travelator/lift lobby – this amendment essentially relates to travelator and lift leading into a single lobby whereas the approved design has them separated by a trolley store. The pedestrian circulation area adjoining the lobby has been reduced in width. There is

an associated change to the Kiaora Lane façade where a void adjacent to the trolley store is now to be infilled.

This change is illustrated on drawing number 3019_DA_13-E, see Annexure 1.

Justification

The travelator area and lift lobby areas have been integrated so as a user can circulate within the same area without the need to exit one space to enter another space at the roof level. This will also improve surveillance of the space as one integrated element and there are no hidden spaces.

Assessment

The changes proposed by this request are relatively minor and essentially concern the internal use of spaces. The façade change will make little difference to the building's design and appearance.

This requested change is considered to be satisfactory.

8.1.4 Supermarket layout – various changes are proposed to the internal floor plan layout of the supermarket.

This change is illustrated on drawing number 3019_DA_12-E, see Annexure 1.

Justification

The internal layout of the supermarket has been refined and this is shown on the drawings.

Assessment

The proposed changes to the layout of the supermarket do not raise any issues regarding the planning controls and are considered to be satisfactory.

8.1.5 Additional trolley bays - the location of trolley bays on the roof level carpark has been changed due, it would seem, to the redesign of the travelator/lift lobby at this level which affected their original location. Trolley bays are now proposed to be located at various locations around the carparking area.

Justification

The inclusion of additional trolley bays throughout the ground floor area and roof level parking area as an improvement for users.

Assessment

The relocation of trolley bays does not raise any issues regarding the planning controls and is considered to be satisfactory.

8.1.6 ESD measures.

Justification

The inclusion of improved Ecologically Sustainable Development (ESD) measures such as photovoltaic cells on the roof of the travelator lobby.

Assessment

Specific details of the ESD measures proposed as part of this modification application have not been provided. The assessment of the original proposal concluded that, subject to conditions, the proposal was satisfactory in terms of the Double Bay Centre DCP, section A2.5.9 Environmentally Sustainable Design. The controls support the incorporation of renewable energy sources into the design of buildings and the installation of devices such as photovoltaic cells would be supported in principle.

A new advising (K.28) should be included to require specific details of the ESD measures to be submitted for approval. This may involve another s.96 application or a new DA.

8.1.7 Electricity substations – the approved scheme provides for the installation of three (3) electricity substations, one (1) in the public plaza and two (2) in the pedestrian link at the western end of the development. This modification application initially deleted the approved substation in the public plaza and provided for two (2) substations in the landscaped area to the south of the Kiaora Lane building.

This change is illustrated on drawing numbers 3109_DA_11-E and 24-E, see Annexure 1.

Justification

The amendments include a new location for electricity substations in Anderson Street as a result of design development and consultations with the energy authority.

Assessment

The plans submitted with this s.96(2) modification application show two (2) electricity substations located in the setback area on the southern side of the Kiaora Lane building, adjacent to the western side of the Anderson Street carpark exit at the rear of 10 Court Road. The applicant has subsequently advised that it does not wish to alter the location of the substations from that identified in the approved drawings and withdraws this element of the s.96(2) modification application. The applicant's reason for this is that Ausgrid have not supported the changed location shown in the s.96(2) drawings.

Condition A.10 has been added to clarify that the modified consent does not provide for changes to the location of the substations.

Also refer to part 8.11 of this report.

8.1.8 Amended landscaping – The s.96 plans indicate differences to the landscape treatment of the roof garden to the ground floor parking level on the southern side of the Kiaora Lane building. The roof garden is located in the area over that section of the ground floor carpark where the 1st floor supermarket is setback an additional distance (of approximately 6.8m) from the southern boundary. It occupies almost the entire southern elevation of the Kiaora

Lane building. The indication is that more substantial planting is proposed along the edge of the roof garden.

Reference to this change is illustrated on drawing numbers 3109_DA_12-E and 024E, see Annexure 1.

Justification

Altered landscaping on western side of supermarket building and amended extent of landscaping on First Floor Plan.

Assessment

Landscape plans are required to clarify the specific treatment of the roof garden as indicated on the s.96 architectural plans.

8.1.9 Security – after hours security shutters are proposed in the area of the travelers/lift lobby at ground and roof level.

Justification

Inclusion of security measures to restrict access to the Dan Murphy's and Woolworths supermarket when not operational at the ground floor and roof levels. This change will still maintain access via the lift rather than the travelers.

Assessment

These are considered to be minor amendments which do not affect any of the planning controls that apply to the Kiaora Lands development or which raise any other planning or environmental issues.

8.1.10 Miscellaneous changes – The plans show amendments to the internal layout of the liquor store loading dock, and the relocation of a general storage area, MFD (main frame distribution), grease arrestor and switch rooms located at the western end on the ground floor.

These amendments are not specifically referred to in the SEE. However, they are considered to be minor amendments which do not affect any of the planning controls that apply to the Kiaora Lands development or which raise any other planning or environmental issues.

8.2 Requested change 2 – traffic generating development

It is requested that condition A.5 h) be deleted:

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):

...

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.

Justification:

Fabcot has taken acoustic advice from Reverb Acoustic Consultants in relation to the imposed condition, which indicates that the condition is not relevant to the proposed development for the following reason:

The existing Leq noise level along New South Head Road is in the order of 60dB(A).

Additional traffic produced by the development will raise noise levels by less than 0.5dB(A).

Therefore, this Condition is not required.

Assessment

Under the Infrastructure SEPP, cl.104, a consent authority is required to consider any submission from the RTA (now RMS). RMS did make a submission which included a recommendation that a number of conditions, including condition A.5(h) be imposed. A consent authority is not required to impose any conditions which may be included in RMS's submission but it must take the matters raised in a submission into consideration. It is therefore open to the consent authority to delete a condition imposed in response to a submission from RMS if it considers it appropriate.

Clause 102 of the Infrastructure SEPP applies to certain types of development on high traffic road corridors that the consent authority considers is likely to be affected by road noise or vibration. It applies to road corridors with an average daily traffic volume of more than 40,000 and residential, place of public worship, hospital and education or child care developments.

Consideration should be given to the impact on the future users of the development, and the library in particular, of noise associated with traffic on New South Head Road. The average daily traffic volume of New South Head Road is about 40,000 vehicles. However, libraries are not a category of development referred to in cl.102.

Deletion of the condition is supported. Imposition of an additional advising (K.29) is considered appropriate requiring the applicant to consider the use of durable materials to mitigate road traffic noise from New South Head Road.

8.3 Request change 3 – prior to demolition to any building or construction

It is requested that Condition B.1 be deleted.

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.~~

Justification:

The proposed development requires the demolition of all structures on-site. No works are proposed to alter or add to any existing buildings. The nature of the condition does not relate to the proposed form of development. As condition B.1 falls under the heading B. Conditions which must be satisfied prior to the demolition of any building or construction, the applicant cannot undertake preliminary works to satisfy other conditions in the consent such as those which relate to further investigations required regarding contamination matters. As the proposal involves complete removal of all existing structures and new building with no alterations and additions to any existing structures, the need for a construction certificate associated with demolition works is not relevant to this development. As such, the condition should be deleted.

Assessment

The demolition work required as part of this development is not associated with an altered portion of, or an extension to, an existing building. This is because all existing buildings are to be demolished. The development involves the construction of new buildings rather than the alteration or extension of an existing building. As such the condition is not relevant to the development.

The applicant's requested change 4 to delete condition B.1 is supported on the basis that it will avoid any confusion about the need to satisfy all conditions in Part C and Part D of the consent prior to any demolition work.

8.4 Requested change 4 – conditions which must be satisfied prior to the issue of any construction certificate

It is requested that the header for conditions under Section C be amended as follows:

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

Justification:

The advice from Fabcot's certifier indicates that it is not unusual to start a project with phases as proposed by Fabcot in this instance where demolition, piling and ground floor slab were outlined in the Construction Management Plan as the first phase. The wording change requested does not change the nature of the requirement to gain approval via the issue of a Construction Certificate but allows for the issue of the "relevant" construction certificate and the first phase to proceed.

Assessment

Information about the phasing of the development was not provided with the original DA. The Construction Management Plan provided for sequencing of the construction in 2 stages, stage 1 being the Kiaora Lane building and stage 2 being the New South Head Road building/Kiaora Lane civil works.

The applicant's justification is supported in principle. With a development of this nature it is understandable that construction works may proceed on the basis of multiple construction certificates for practical reasons. However, there are conditions the terms of which do need to be satisfied prior to the issue of any construction certificate, e.g. C.2 – payment of levies, etc. and C.4 – Roads Act approval.

The s.96 application requests changes to the timing of other part C conditions and these are discussed separately.

The applicant's request to change 4 to change the heading for conditions under section C be supported with a change that reflects the circumstances described earlier. It is recommended that the heading be changed to read as follows:

C. Conditions which must be satisfied prior to the issue of the relevant construction certificate or, as may be stipulated, prior to the issue of any construction certificate

8.5 Requested change 5 – modification of conditions of development consent (s80(1)(g) of the Act), l)iii, iv, v and vii (acoustics)

It is requested that condition C.1 l) iii), iv), v and vii, be amended as follows:

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:

- 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/m² 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.~~

Justifications:

It is understood that the intent of the conditions imposed by Council are to contain noise. This is understood by Fabcot and this was demonstrated throughout the design development stage of the project, in that the building was redesigned so as to move the circulation ramp to the northern side of the supermarket building, fully enclose the ramp and fully enclose the ground floor car parking area. The loading dock areas each have roller shutter doors which will be closed so as to stop noise emanating from these areas.

Fabcot have taken advice from Reverb Acoustic Consultants (refer to Appendix C) which indicates:

Reverb Response to Item A7(sic) (l) (iii):

The following noise control is proposed for the docks:

- 1. Solid acoustic doors to docks.*
- 2. Trucks will not begin reversing until dock doors are shut.*

3. *Loading will not commence until dock doors are shut.*

Internal lining to walls and ceilings in the docks is not required providing it can be demonstrated that noise emissions will comply with the criteria.

Reverb Response to Item A7(sic) (l) (iv):

The ground level carpark is fully enclosed and noise from cars manoeuvring, parking, etc, will be contained. This recommendation is costly and unnecessary. Note that the exit/entry points are the only noise leakage paths and treatment to ceilings in these areas is proposed. In our experience only vehicles entering and leaving will be audible at the exit/entry points. Furthermore, we have never seen such a stringent and unnecessary Condition imposed.

Reverb Response to Item A7 (sic) (l) (v):

See response to Item (iv).

Reverb Response to Item A7(sic) (l) (vii):

We consider this Condition to be excessive and recommend that the Condition be modified to only require treatment to the ceiling and not the walls. Our calculations were carried out with no allowance for treatment, although to provide a measure of conservatism ceiling treatment seems acceptable. Acoustic materials are ideally placed away from the possibility of damage and we consider wall treatment would be damaged over time.

Assessment

These conditions were imposed to achieve conformity with the Double Bay Centre DCP, A2.5.6, C21, C25, C26 and C32 respectively. In response to these controls the applicant's SEE submitted with the original DA included *This could also be accommodated via a condition* or that the design complied. Accordingly the conditions were imposed. Imposition of the conditions also formed part of Council's Senior Environmental Health Officer's referral response recommendation.

At the time I prepared the assessment report on the original DA I was not aware that these provisions had been incorporated into the DCP on the basis that an open design carpark was envisaged. This was because my involvement in the assessment of the original DA was on the basis that I had not been involved in the preparation of the planning controls that apply to the Kiaora Lands development site in accordance with the Probity Plan prepared for this Public Private Partnership. Council's Environmental Health Officer would have been similarly unaware.

I have since been advised by Council's Director – Planning and Development, who was involved in the preparation of the planning controls, that these controls were included when an open design carpark was envisaged.

In considering this request the relevant Principle under A2.5.6 is P5 which provides:

Ensure the design of the carpark:

P5 Minimises the amenity impacts of the carparking and loading docks on surrounding properties and public domain.

Control C11 under A2.5.3 sets the performance criteria in relation to noise associated with the use of the premises in the following terms:

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.

The SEE includes a letter dated 29/8/12 from the applicant's noise consultant, Reverb Acoustics, in relation to this request. Because of the comments on condition C.11)iii), which are in part referred to above under *Justification*, the applicant was requested to clarify what is meant by *providing it can be demonstrated that noise emissions will comply with the criteria.* The Reverb Acoustics letter also states that *Calculations will be included within the forthcoming analysis report.* A letter dated 31/10/12 was received from Reverb Acoustics to clarify these statements.

Council's Environmental Health Officer has provided a referral response which includes the following comments in relation to this request change:

In relation to Condition C.1 (l) (iii), Reverb Acoustics has commented that internal lining to the walls and ceilings in the docks are not required as it can be demonstrated that noise emissions will comply with the criteria. The following noise controls are proposed for the loading docks;

- *solid acoustic doors to the docks*
- *trucks not to begin reversing until the dock doors are shut*
- *loading is not to commence until dock doors are shut*

No calculations were included with the Acoustic Response attached to Appendix C of the Statement of Environmental Effects (September 2012 Project No. 213.041). In response Reverb Acoustics has provided additional information by way of noise calculations in letter dated 31 October, 2012 (Ref. No. 11-1605-L8).

Calculations: Noise impact from activities associated with the loading docks

Supermarket Loading Dock: Receivers R1 & R2 40dB(A), Leq
Dan Murphys Loading Dock: Receivers R11 & R12 46dB(A), Leq

When trucks enter the loading docks, the doors are to be closed and only then are the trucks to manoeuvre/reverse into the unloading area while a compactor is used intermittently. The predicted impact from these activities is as follows:

<i>Leq at inside surface doors</i>	<i>82dB(A)</i>
<i>Transmission loss doors</i>	<i>-25dB(A)</i>
<i>Area gain doors</i>	<i>+8dB(A)</i>
<i>Loss to receiver</i>	<i>-36dB(A)</i>

Sound Pressure Level at receiver 29dB(A)

Noise impacts from external truck movements and loading dock doors operating are also added to the noise impact within the loading dock areas when the doors are closed.

Reverb Acoustics has recalculated the noise impact as follows:

Supermarket Loading Dock: Receivers R1 & R2

40dB(A), $Leq + 29dB(A)$ (internal) = 40dB(A) at the receivers

Dan Murphys Loading Dock: Receivers R11 & R12

46dB(A), $Leq + 29dB(A)$ (internal) = 46dB(A) at the receivers

Reverb Acoustics has demonstrated by way of calculations that there will not be any additional impact of noise at receivers R1, R2, R11 and R12 if the internal lining to the walls and ceilings in the loading docks are not provided.

RECOMMENDATION

Condition C.1(l) (iii), be amended to read as follows:

Automated solid acoustic roller shutter doors are to be provided to all loading dock areas to ensure that there is no break-out noise from delivery vehicle activities and compactor use. Staff assigned to the loading dock areas are to be made aware of the noise control responsibilities requiring that delivery vehicles are not to begin reversing until loading dock doors are shut; unloading and loading of delivery vehicles and use of compactors are not to commence until loading dock doors are shut.

[Receivers R1 and R2 are the nearest residential properties to the Kiaora Road loading dock entry/exit, being 8 Kiaora Road and 1 Leura Road respectively. Receivers R11 and R12 are the nearest residential properties to the liquor store loading dock, being 6 and 4 Patterson Street respectively.]

Condition C.1 (l) (iv)

In relation to Condition C.1 (l) (iv), Reverb Acoustics has commented that the ground level car park is fully enclosed and that noise from vehicle movements will be fully contained within the car park. Only noise from vehicles entering and exiting the car park will be audible.

It should be noted that acoustic standards provided for in the Double Bay Development Control Plan for Kiaora Lands were developed prior to the building being redesigned to fully enclose the ground floor car parking area.

RECOMMENDATION

Condition C.1(l) (iv), be amended to read as follows:

That acoustic treatment shall be provided to the underside of the ceilings in the entry and exit areas of the ground level car park to control noise leakage paths by providing an effective reduction of the reverberant characteristics resulting from vehicular movements.

Condition C.1 (l) (v)

In relation to Condition C.1 (l) (v), Reverb Acoustics has commented that the ground level car park is fully enclosed and that noise from vehicle movements will be fully contained within the car park. Only noise from vehicles entering and exiting the car park will be

audible.

RECOMMENDATION

That Condition C.1 (l) (v) is deleted as part of Condition C.1.

In relation to Condition C.1 (l) (vii), Reverb Acoustics has commented that original noise calculations were conducted with no allowance for acoustic treatment of ceilings or walls. Again it should be noted that acoustic standards provided for in the Double Bay Development Control Plan for Kiaora Lands were developed prior to the building being redesigned to fully enclose the ground floor car parking area. Reverb Acoustics does agree for treatment of the ceilings as being acceptable.

RECOMMENDATION

Condition C.1(l) (vii), be amended to read as follows:

The ceiling 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.

The Senior Environmental Health Officer's comments are generally supported. Recommended amendments to condition C.1) iii should be in 2 parts with the revised condition requiring the provision of automated solid acoustic roller shutter doors. The second part should relate to the operation of the doors and be a new 'I' condition (see condition I.35).

The applicant's requested change 5 to deleted conditions C.1)iii, iv, v and vii are, in part, supported. The wording of the conditions should be changed to be consistent with Council's Senior Environmental Health Officer's recommendations.

It should be noted that this assessment applies the provisions of the Double Bay Centre DCP and not some different standards. Strict adherence to some specific provisions of the DCP is considered to be no longer necessary in order to achieve the DCP's noise emission criteria.

8.6 Requested change 6 – modification of conditions of development consent (s80(1)(g) of the Act) m) (through site pedestrian footpath)

It is requested that condition C.1 m), be amended as follows:

C.1 Modification of details of the development (s80A(I)(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:

....

- 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

Justifications:

The requested change will result in the loss of car parking spaces within the ground level parking area and require a complete redesign of the car parking area. The measures proposed in roman numerals ii and iii will achieve an appropriate level of safety and the width of the pedestrian path has been designed by Fabcot to allow two persons pushing trolleys to safely pass one another. Therefore the need to amend the design is not warranted and it is requested that this element of the condition be deleted.

Assessment

The Double Bay Commercial Centre DCP, A2.5.6, C9 provides that, as a minimum, the footpath have a minimum clear width of 2.5m. The s.96 plans show the width of the footpath being 1.8m where it is adjacent to trolley storage racks apart from where two (2) structural columns encroach onto this width at the southern most racks. There appears to be sufficient room to increase the width on the eastern side of this section of the footpath to achieve a 1.8m width without affecting the carparking design. There is no apparent reason why the 2.5m width required by condition C.1 can not be easily achieved at the relevant locations without affecting the design of the carpark.

The applicant's requested change 6 to amend condition C.1m) is not supported.

8.7 Requested change 7 – modification of conditions of development consent (s80(1)(g) of the Act), n) (Kiaora Road carpark entry and loading dock)

It is requested that condition C.1 n), be amended as follows:

- n) ~~Modifications must be made to the Kiaora Road carpark entrance such that there are 2 internal boom gates.~~ Specifications for the boom gate and associated equipment are to provide an operating capacity of 600 vph or six vehicles per second per boom gate. This requirement is to be written into the relevant tender documents for the supply and installation of any car park equipment. 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.

Justifications:

The imposition of the condition was not discussed with the applicant prior to the completion of the Council assessment report and draft conditions for consideration by the Joint Regional Planning Panel (JRPP). The cost of the change requested in the condition sought by Council has contributed to the project being over budget and not within the budget agreement between Council and Fabcot when the project's Private Public Partnership (PPP) contract was executed. The applicant has evaluated the impact of the change sought by Council and now included in the consent, and considers that the nature of the design change is not warranted and adds unnecessarily to the budget of the project which could jeopardise the entire project proceeding.

Council claims that the volume of traffic which will result from the proposed development in Kiaora Road justifies the need for two entry lanes/two boom gates. Council is responsible for the design and installation of any future ticketing system under the terms of the agreement between Council and Fabcot.

The applicant considers that a well designed and optimally operating ticketing system which uses technology and dispenses tickets prior to arrival will not necessitate the need for two entry lanes/boom gates, as there is sufficient queuing available on-site and in the right-turn bay as demonstrated by Halcrow in the information submitted with the DA.

The condition relates to a controlled parking/ticketing system for which the DA as submitted does not propose. The car parking area when completed will be in Council's ownership and management, and should Council wish to operate the car park based on a controlled ticketing system then a separate DA should be submitted by Council for the same.

*The applicant's traffic consultant from GTA Consultants (formerly with Halcrow) have considered the issue in detail and have provided advice as attached at **Appendix B**. Rather than seeking the deletion of the condition, the applicant seeks an amendment to the condition as specified above*

Assessment

The issue is whether or not the Kiaora Road carpark entry can operate efficiently and without causing disruption to traffic using the surrounding street network. Matters raised in the applicant's justification relating to costs, budget and any other agreements are not relevant to the assessment of the s.96 application. The statement *which could jeopardise the entire project proceeding* has not been substantiated by the applicant. If the project was not to proceed the public benefits that the project offers would not be realised and this could be a relevant planning consideration under s.79C of the Act. These unsubstantiated assertions are noted but will not form part of the assessment of this s.96 application.

The SEE includes a letter from GTA Consultants, the applicant's traffic consultants, dated 18/6/12 in relation to condition C.1n). It maintains that:

- based on modelling approximately 242 vehicles per hour (vph) would enter the carpark via the Kiaora Road entrance during peak hours
- a modern carpark systems have a boom gate capacity of 600vph
- using traffic engineering standards the Kiaora Road entrance with one (1) boom gate would have a capacity of 400vph with an average queue length of two (2) vehicles and a 95th percentile queue length would be up to six (6) vehicles long
- the DA plans show an on-site queuing length of 36m for the Kiaora Road entrance which is sufficient to store the 95th percentile queue length within the property
- Council's queuing analysis was based on the 98th percentile queue length but that standard relates to mechanical parking installations such as car stackers
- Generally the 85th percentile queue is acceptable however the 95th percentile queue length allows flexibility during extreme peak periods
- If the boom gate capacity was 600vph the 95th percentile queue length would be four (4) vehicles

- The on-site queuing length would still be capable of accommodating the 95th percentile queue if traffic increases by 50%.

The letter suggests the revised condition as contained in the applicant's request.

Council's Manager-Engineering Services provided comments in her memorandum dated 29/10/12 (see Annexure B) on the traffic/parking related requests in the s.96 application. Regarding this request her comments were as follows:

The initial traffic report had a service rate of 400 vehicles per hour for the Kiaora Road entrance boom gate. The applicant is now suggesting that there may be technology that allows a service rate of 600 vehicles per hour. I have undertaken a queuing analysis based on the new service rate and I am satisfied that this will satisfy the 98th percentile queue length. I therefore do not object to the intent of the requested change. However, I recommend that the condition be worded as follows:

C1 n) The Kiaora Road car park entrance must have the operating capacity to admit a minimum of 600 vehicles per hour. The applicant may be able to meet this condition through the installation of one or two boom gates, subject to the equipment specifications. The applicant must demonstrate to the satisfaction of Council's Technical Services Division, that the specifications for the boom gate/s and associated equipment meet this requirement prior to the issue of the Construction Certificate.

This condition is imposed to prevent inbound vehicles to the car park 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.

In order to ensure that this condition is satisfied during the ongoing use of the development, it is also recommended that a new "I" Condition be imposed as follows:

The Kiaora Road car park entrance must have the operating capacity to admit a minimum of 600 vehicles per hour.

This condition is imposed to prevent inbound vehicles to the car park 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 conditions as recommended by Council's Manager-Engineering Services are considered appropriate. Whereas the original condition is a prescriptive condition the proposed condition is performance based allowing options for achieving a desirable environmental outcome and a means by which the stated reason for the condition can still be satisfied. The applicant's request that the requirement be written into tender documents is not appropriate. Also, the rate of 600 vph equates to 1 vehicle every 6 seconds.

To achieve this outcome the recommendation is that condition C.1n) be deleted and new conditions C.1o) and I.33 be added.

8.8 Requested change 8 – certification of gross floor area

It is requested that condition C.3 be amended as follows:

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~~ **6,519** m² in relation to the New South Head Road building and ~~12,819~~ **12,998.4** m² 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

Justification:

Schedule 1 – Density Map

The provisions of Schedule 1 of the Woollahra Local Environmental Plan 1995 (WLEP 1995) have been amended as a result of WLEP 1995 Amendment No. 67 being gazetted on 10 June 2011, and as such the land is subject to site specific floor space ratio (FSR) controls as shown in Figure 3 as follows:

density map means the map marked “Woollahra Local Environmental Plan 1995—Density Map”, as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

...

Woollahra Local Environment Plan 1995 (Amendment No 67)—Density Map

(map deleted)

The redevelopment involves a FSR for the building proposed at the New South Head Road frontage (Library building) of 3:1, where the site area is 2,173 square metres and a maximum FSR shown in the map is 3:1, the maximum amount built form can be up to 6,519 square metres and as such this building as proposed complies.

The drawings are not proposed to be amended by this application, however the Library building was designed up to the maximum FSR permitted. As such, the condition has been amended.

The redevelopment involves a FSR for the building proposed at the Kiaora Lane frontage

(Supermarket building) of 1.095:1, where the site area is 11,869.7 square metres and a maximum FSR shown in the map is 1.1:1. The maximum amount of built form can be up to 13,056.67 square metres and as such this building as proposed complies. The drawings submitted with this application amend the area associated with the travelator

and lift lobbies being connected at the roof level. As such, the condition has been amended.

Assessment

The gross floor area figures as shown in the original condition are considered to be the appropriate figures. Also, the change to the area of the travelators/lift lobby does not change the gross floor area as it forms part of the access to the carparking and/or is part of a carparking station.

The requested changes to condition C.3 are not supported.

8.9 Requested change 9 – roads and public domain works

It is requested that condition C.4 be amended as follows:

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.~~ Repair road between the subject site and 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 frontage ~~full length~~ of the development to Kiaora Lane.

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 only for the frontage of the development site. Road repair between the subject site and Manning Road.
- Drainage – new 375mm diameter Reinforced Concrete Pipe and pits.

Anderson Street

- Roadworks ~~Kerb & gutter and driveways and road pavement.~~ Road repair between the subject site and Court Road.
- ~~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.
- Full footpath, kerb and gutter details.
- 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. Advising of this Consent titled Roads Act Application.
Standard Condition: C13 (Autotext CC13)

Justification:

The condition requires the reconstruction of a footpath in Manning Road (to which the proposed development has no frontage), the reconstruction of all of Anderson Street, the reconstruction of the entire length of Kiaora Lane and the reconstruction of all of Patterson Street. The nature of these works involves frontages for which the proposed development has no frontage and therefore there is no nexus for the entire reconstruction of the nominated roads or provision of a new footpath.

Fabcot is prepared to undertake road repairs post the construction phase and construct kerbs and roads as per the civil and landscape drawing information submitted with the DA. The applicant seeks the amendment of the condition and that the drawings associated with civil and landscape works associated with road elements as submitted with the DA prevail.

Assessment

Council's Manager-Engineering Services comments regarding condition C.4 are as follows (see Annexure 2):

In general, I am opposed to the requested changes to Condition C4.

With regard to Kiaora Lane, a Shared Zone is being created in the bulk of the laneway. This recognises that the development will attract a significant number of pedestrian movements. These pedestrians will travel from the car park. These pedestrians will also travel on the section of Kiaora Road, near Manning Road, from surrounding streets and public transport on New South Head Road. Given this, it is important to provide appropriate facilities to meet the access needs of the development.

Further, from a road safety perspective, it is important that pedestrians and motorists utilising Kiaora Lane to reach the development, have a clear understanding regarding where the Shared Zone is in operation and where it is not. It is therefore essential, that in the section of Kiaora Road (sic) that will not be a Shared Zone, that the footpath, roadway and kerb & gutter are clearly delineated in appropriate materials.

With regard to Patterson Street, as with Kiaora Lane, pedestrians will travel to the development from surrounding streets. The current footpath on the northern side of Patterson Street does not provide level pedestrian access. There is currently no footpath on the southern side of Patterson Street. It is essential that appropriate access facilities are provided in Patterson Street. Kerb realignment is required in order to provide the appropriate footpath access.

With regard to Anderson Street, as with Kiaora Lane, pedestrians will travel to the development from surrounding streets. The current footpaths do not provide level pedestrian access. It is essential that appropriate access facilities are provided in Anderson Street.

With regard to Manning Road, it is noted that the development does not front Manning Road and therefore these works may be considered excessive. It is therefore recommended that the Manning Road works be removed.

I therefore recommend that the Manning Road works be removed, but the remainder of condition C4 be retained.

I note in relation to Condition C4, that when this matter was considered by the JRPP at their meeting on the 27 June 2012 the minutes note, "The Panel has considered also the applicant's request to amend Condition C4 in order to reduce the amount of reconstruction required. Given the cost of the project relative to the cost of the disputed reconstruction works, the Panel resolves to leave the condition unchanged."

Given the scale of the development, the works requested are reasonable and directly relate to the future increased vehicle and pedestrian movements which will be associated with the new development. The applicant has provided no reasonable justification to make changes to this condition.

The above comments are supported. There is a nexus between the development and the road and public domain works contained within the condition with the exception of the works for Manning Road. The condition, as recommended by Council's Manager-Engineering Services, is considered to be consistent with the s.80A of the Act and with the *Newbury Principles* of being relevant to the proposed development, for a planning purpose and reasonable. The comments of the Regional Panel, as referred to earlier, supported the imposition of the condition C.4.

The applicant's request change 9 to amend condition C.4 is supported only insofar as it relates to the works in Manning Road.

8.10 Requested change 10 – utility services generally

It is requested that condition C.6 be amended as follows:

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~~ the relevant 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*

Justification:

Same as requested change 4.

Assessment

Changing this condition to allow the submission of information about the location of service poles, substations and the supplier's requirements to a subsequent construction certificate is a reasonable request and is supported. The information is not necessary for the initial phase construction certificate which, as described in the s.96 application, will essentially apply to preliminary works.

The applicant's requested change 10 to amend condition C.6 is supported.

8.11 Requested change 11 – provision of energy supplies

It is requested that condition C.7 be amended as follows:

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

Justification:

The design changes shown in the amended architectural drawings have relocated the electricity substations to Anderson Street and due to the electricity authority requirements no landscaping can be placed between the structure and public road.

Assessment

The amended plans submitted with this s.96(2) modification application show two (2) electricity substations located in the setback area on the southern side of the Kiaora Lane building, adjacent to the western side of the Anderson Street carpark exit at the rear of 10 Court Road. The applicant has subsequently advised that it does not wish to alter the location of the substations from that identified in the approved drawings and withdraws this element of the s.96(2) modification application. It has also withdrawn its request to change condition C.7. The applicant's reason for this is that Ausgrid have not supported the changed location shown in the s.96(2) drawings.

The applicant's request to withdraw requested change 11, to amend condition C.7, is noted.

8.12 Requested change 12 – parking facilities

It is requested that condition C.17 be amended as follows:

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, ASINZS 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 except where required to be amended, provided and maintained by this consent.

Standard Condition: C45

Justification:

To make clear the condition so as a Certifying Authority can comply with all the conditions of the consent.

Assessment

The wording of this condition may preclude a Certifying Authority from issuing a construction certificate where compliance with another condition would inevitably result in the loss of carparking spaces. Satisfying condition C.1n) which, in its current wording, would require an additional boom gate at the Kiaora Road entry, would likely result in the loss of

carparking spaces and/or parking area. It would not be in anyone's interest, including the applicant's interest, to unnecessarily reduce the number of parking spaces. Condition C.1n), as recommended by this report, still requires the applicant to demonstrate to the satisfaction of Council's Technical Services Division that the boom gate/s arrangement will achieve the required operating capacity. This means that any changes to the carparking spaces or carparking area as a consequence of this condition can be evaluated prior to the issue of a construction certificate.

In the circumstances the requested change to this condition is supported.

8.13 Requested change 13 – relocation or reconstruction of Council's stormwater drainage system

It is requested that condition C.18 be amended as follows:

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~~ with 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)

Justification:

To ensure Council does not cause any delays with the issuing of a Construction Certificate, as it is noted that conditions C.4, C.10, C.19, and C.26 set out Council's requirements. Also, to be consistent with wording already established such as "C.4 Other dot point 1" which states revised plans are to be prepared and submitted to Council."

Assessment

The referral response from Council's Development Engineer (see Annexure 2) comments on the s.96 requested changes relating to stormwater/drainage conditions. In relation to requested change 13/condition C.18 the following comments are provided:

The applicant's Requested Change 13 proposes to amend C18 to remove the need for approval of drainage design plans before issue of the CC.

I do not agree with this change as some of the works are to be built on Council's road reserve and Council needs to approve the plans before construction under the Roads Act 1993.

The argument given for the change is to avoid delays, but there would still appear to be adequate time to submit plans for approval before construction.

The Kiaora Lands site is flood prone land. Avoiding adverse impacts from a development of this scale in a drainage sensitive area is one of the most critical aspects in the approval process. The other conditions referred to by the applicant in its justification for changing this condition do not prescribe how the drainage works are to be designed or installed.

The drainage works will have a significant impact on Council's stormwater drainage infrastructure in this part of Double Bay, as referred to by the Development Engineer. Approval of the design plans before the construction certificate is issued is supported.

The applicant's concerns about Council causing delays in issuing a construction certificate are unfounded.

Requested change 13 to condition C.18 is not supported.

8.14 Requested change 14 – amended stormwater drainage plan

It is requested that condition C.26 be amended as follows:

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 rain gardens 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.

Justification:

It is considered in relation to the above condition that integrated Water Sensitive Urban Design (WSUD) elements such as permeable areas, bio retention, rain gardens and garden beds are not achievable considering the nature of the subject site.

In relation to Condition C.26, there will be tree pits and landscaped areas however these will not collect stormwater drainage for passive irrigation and drainage. This is due to the commitment of the design of the roof to collect stormwater for these purposes, which has been specifically designed to do so.

Assessment

The referral response from Council's Development Engineer (see Annexure 2) comments on the s.96 requested changes relating to stormwater/drainage conditions. In relation to requested change 14/condition C.26 the following comments are provided:

The applicant states that "Water Sensitive Urban Design (WSUD)" elements such as permeable areas, bio retention, rain gardens and garden beds are "not achievable" but provides no evidence for this statement. I can see no reason to amend this condition as it is important that nutrient flows from the site be mitigated to protect the downstream environment.

Comments in the earlier Assessment of Requested change 13 regarding Kiaora Lands being in a drainage sensitive area also apply to this request. The comments of Council's Development Engineer are supported. Also, the applicant's Justification does not address the request to delete the requirement of the condition for Council approval.

Requested change 14 to amend condition C.26 is not supported.

It should be noted that the applicant has submitted amended stormwater drainage plans. These plans have been referred to Council's Team Leader-Environment & Sustainability who has advised that the plans generally satisfy condition C.26.

8.15 Requested change 15 – detail for office plant space, gas heating ventilation and air conditioning

It is requested that condition C.28 be deleted:

~~*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.*~~

Justification:

It is considered in relation to Condition C.28 that this Condition is based on a contractual arrangement between Fabcot and Council and involves the component of the supermarket building which Council will take control. Council will either have to fund the works or provide details of the specifications. As Council does not have this information available now, the condition is requested to be deleted.

Assessment

The matter raised in the applicant's justification regarding contractual arrangements is not a relevant matter for consideration under s.96(2) of the Act.

The applicant's requested change 15 to delete condition C28 is not supported.

It should be noted that the applicant has details for office plant, Gas Heating Ventilation and Air Conditioning (HVAC) equipment and rainwater tanks. These details have been referred to Council's Team Leader-Environment & Sustainability who has advised that they generally satisfy condition C.28.

8.16 Requested change 16- acoustic treatment – vehicle ramp between carparking levels

It is requested that condition F.20 be deleted:

~~*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.*~~

Justification:

Fabcot have taken advice from their acoustic consultants from Reverb who have advised:

The vehicle ramp is fully enclosed and if it was open we could understand and accept this Condition, although it is not warranted given that noise will be contained. The only noise leakage path is at the opening to the upper carpark deck, although the opening faces towards commercial receivers and nearest residential receivers are well shielded by the remainder of the building.

Therefore, it is requested that the condition be deleted.

Assessment

Earlier assessment comments about acoustic related provisions of the Double Bay Centre DCP, the conditions consequently imposed on the consent and the carpark now being an enclosed structure rather than an open structure, are also relevant to the assessment of this request.

In response to a request by Council for further information in connection with noise conditions the applicant's noise consultant, Reverb Acoustics, submitted a letter dated 31/10/12. It includes the following statement:

As stated in "Reverb Response 1" all calculations have been carried out with no allowance for acoustic linings to ceilings and walls in any assessed area.

Council's Senior Environmental Health Officer provided the following comments in relation to this request:

In relation to Condition F.20 Reverb Acoustics argues that the condition would be acceptable if the vehicle ramp was open; however with the building being redesigned to fully enclose the car parking area, the noise leakage path is contained. The only noise leakage path is at the opening to the upper car park deck area.

RECOMMENDATION

Condition F.20 be amended to read as follows:

The ceiling to the opening of the upper car park deck area 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.

The Senior Environmental Health Officer's comments and recommendation are supported.

The applicant's requested change 16 to delete condition F.20 is supported in principle. Rather than deleting the condition its wording needs to be changed as recommended by the Senior Environmental Health Officer.

8.17 Requested change 17 – electronic vacant car parking space identification

It is requested that condition F.22 be deleted:

~~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~~

Justification:

This condition relates to the containment of noise within the car park so as to minimise noise from cars circulating. The applicant has fully enclosed the ground floor level of the car park to mitigate noise impacts and as such there is no need for a system as required by the DCP. It is also noted that the condition relates to a controlled parking/ticketing system for which the DA does not propose.

The car parking area when completed will be in Council's ownership and management, and should Council wish to operate the car park based on a controlled ticketing system then a separate DA should be submitted by Council for the same. The applicant seeks the deletion of the condition.

It is considered that Condition F.22 imposes works outside the scope of agreement between Council and Fabcot.

Assessment

Condition F.22 for the installation of electronic vacant carparking space identification is consistent with the Double Bay Centre DCP, A2.5.6, C29.

The letter dated 31/10/12 from Reverb Acoustics, the applicant's noise consultant, includes the following in relation to this request:

The carpark is fully enclosed and the only potential noise leakage paths are the entries and exits. Acoustic treatment to ceilings at the entries and exits will be implemented to reduce noise transmission. (It should be acknowledged that treatment to entries and exits was not taken into account in our previous calculations). Implementing an electronic vacant car space identification system may provide a functional purpose, although the acoustic benefit of such a system is negligible and should not be implemented for acoustic reasons.

GTA Consultants, the applicant's traffic consultants, by letter dated 31/10/12 provided the following comments in relation to this request:

We agree with the intent of this condition and suggest it can be met by incorporating a car space counting system that captures the following information:

- *Cars entering and exiting at each external access point*
- *Cars entering and exiting the secured long stay parking on the roof top level, and*
- *Cars travelling up and down the ramp*

Dynamic signage would then be provided at each entry to advise entering vehicle the number of spaces available on each parking level. Static signage indicating the route from the entry to the roof top level parking would supplement this signage.

It would not be appropriate to provide a red/green light vacancy indicator above each space because:

- *Such systems are most appropriate for very large car parks where there is a need to direct vehicles first to a level with available parking and then to individual spaces within a larger floor plate, and*
- *In any event it would not be practical to provide such a system on the roof top level of the car park as it will not have a ceiling on which to fix indicators. A framing system to accommodate the indicators would be both unsightly and prone to damage and/or vandalism.*

The imposition of conditions on the original consent relating to the operation of the carpark is appropriate as the carpark is a major part of the development. This is irrespective of who may eventually own and manage the carpark. The operation of the carpark based on a controlled ticketing system does not require a separate DA in this circumstance. Whether the work required by this condition is outside the scope of an agreement is not pertinent to the assessment of the s.96 application.

The applicant's noise consultant is of the view that the acoustic benefit of such a system is negligible and should not be implemented for acoustic reasons. The applicant's traffic consultant, who agrees with the intent of the condition, suggests an alternative system due to the size of the carpark and for practical reasons.

The following comments of Council's Senior Environmental Health Officer apply to this request:

In relation to this condition Reverb Acoustics correctly argues that the ground floor level of the car park is to be fully enclosed and therefore the noise will be contained within the car park. The only potential noise leakage paths as previously discussed are at the entry and exit areas of the car park. Acoustic treatment is to be provided to the underside of the ceilings in the entry and exit areas of the ground level car park to control noise leakage paths.

RECOMMENDATION

That Condition F.22 is deleted as part of the Conditions.

No comment is offered in relation to the comments that 'The car parking area when completed will be in Council's ownership and management, and should Council wish to operate the car park based on a controlled ticketing system, then a separate DA should be submitted by Council for the same'.

The matters raised by the applicant's consultants are considered to contain merit. In the circumstances it is considered that the condition for electronic vacant car space identification should be retained but an option included for a system as that accords with the traffic consultant's suggestion. The revised condition would be as follows:

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. Such a system may consist of:

A car space counting system that captures the following information:

- Cars entering and exiting at each external access point*
- Cars entering and exiting the secured long stay parking on the roof top level, and*
- Cars travelling up and down the ramp*

Dynamic signage being provided at each entry to advise the driver of an entering vehicle the number of spaces available on each parking level. Static signage indicating the route from the entry to the roof top level parking is to supplement this signage.

The applicant's requested change 17, to delete condition F.22 is not supported. However a modified condition would be appropriate.

8.18 Requested change 18 – traffic calming device – Manning Road/Patterson Street intersection

It is requested that condition F.33 be deleted:

~~***F.33 Traffic calming device – Manning Road/Patterson Street intersection***~~

~~The applicant is to pay all costs associated with the design and installation of a traffic calming device at the intersection of Manning Road and Patterson Street. The design of the traffic calming device 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 traffic calming device 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.~~

Justification:

The intent of the condition is not clear, also the condition could be interpreted in a number of ways and therefore the outcome sought by the condition is not easily understood and therefore difficult to implement.

The imposition of the condition was not discussed with the applicant prior to the completion of the Council assessment report, draft conditions for consideration by the JRPP or with the JRPP. The cost of the change requested in the condition sought by Council has contributed to the project being over budget and not within the budget agreement between Council and Fabcot when the project's PPP contract was executed. The applicant has evaluated the impact of the change sought by Council and now included in the consent, and considers that the nature of the design change is not warranted and adds unnecessarily to the budget of the project which could jeopardise the entire project proceeding.

Assessment

Council's Manager-Engineering Services provided the following comments in response to this request:

As per my comments in relation to the original development application, Manning Road already experiences 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 this street for 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.

My original recommendation was to install a roundabout at the intersection of Manning Road and Patterson Street. The JRPP, following feedback from nearby residents, removed the specific reference to a roundabout and instead resolved that traffic calming be installed, in consultation with the community.

This section 96 application does not seek to reduce vehicle volumes on Manning Road and therefore it is still felt that the proposed development will impact negatively on Manning Road unless means are taken to slow the vehicle speeds. The applicant has provided no reasonable justification to remove this condition. I am therefore opposed to the removal of Condition F33.

The condition has a stated reason, i.e. traffic related impacts of the development and its intent is considered to be clear. References in the condition to community consultation and approval by the Traffic Committee and Council reflect the standard processes involved for an approval of this type of road infrastructure. The condition is considered to satisfy the *Newbury Principles* as it has a planning purpose, is relevant to the development and is reasonable.

Comments previously made about the relevance or otherwise of budgets and agreements to the assessment of the s.96 are again relevant.

The comments of Council's Manager-Engineering Services are supported. The applicant's requested change 18 to delete condition F.33 is not supported.

8.19 Requested change 19 – intersection treatment – Kiaora Road/car park and loading dock entrances

It is requested that condition F.34 be amended so as to read only that line marking is required. Therefore, the applicant requests Council re-draft the condition so as its implementation is clear:

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 via line marking in Kiaora Road and no parking opposite the site in Kiaora Road. 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.

Justification:

The applicant seeks a clear interpretation of the condition by inclusion of the words "line marking" in Kiaora Road.

Assessment

Council's Manager-Engineering Services provided the following comments in relation to this request:

I have no objections to include reference to linemarking in Condition F34, as this was the intention of the condition. The removal of parking is subject to Traffic Committee

and Council approval. It is therefore recommended that the condition be worded as follows:

F34 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 utilising line marking in Kiaora Road. 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 dock driveway, with concrete 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. This may require the removal of parking on the eastern side of Kiaora Road. 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.

The Manager-Engineering Services comments are supported. Her recommendation for the rewording of the condition is consistent with the applicant’s justification for the change. It also acknowledges that compliance with the condition may affect existing parking on the eastern side of Kiaora Road.

The applicant’s Requested Change 19 to condition F.34 is supported in principle. The rewording of the condition as recommended by the Manager-Engineering Services, which is slightly different to that requested by the applicant, should be adopted.

8.20 Requested change 20 – installation of dynamic live/smart signage

It is requested that condition F.37 be deleted:

~~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.~~

Justification:

The imposition of the condition was not discussed with the applicant prior to the completion of the Council assessment report and draft conditions for consideration by

the JRPP. The cost of the change requested in the condition sought by Council has contributed to the project being over budget and not within the budget agreement between Council and Fabcot when the project's PPP contract was executed. The applicant has evaluated the impact of the change sought by Council and now included in the consent, and considers that the nature of the design change is not warranted and adds unnecessarily to the budget of the project which could jeopardise the entire project proceeding.

The condition relates to a controlled parking/ticketing system for which the DA as submitted did not propose. The car parking area when completed will be in Council's ownership and management, and should Council wish to operate the car park based on a controlled ticketing system then a separate DA should be submitted by Council for the same.

The applicant's traffic consultant from GTA Consultants (formerly with Halcrow) have considered the issue in detail and have provided advice as attached at Appendix B.

Assessment

Previous comments regarding the appropriateness, or otherwise, of the cost associated with complying with the condition, project budget, any agreement between Council and Fabcot, the entire project being possibly jeopardised and the need for a separate DA are relevant, see 8.7 and 8.17 Assessments.

Annexure B of the SEE, the letter dated 18/6/12 from GTA Consultants, does not refer to condition F.37. Following a request by Council for the applicant to provide additional information a further letter dated 31/10/12 was received from GTA Consultants. In relation to condition F.37 it includes the following comments:

We believe that it would not be appropriate to provide dynamic smart signage on New South Head Road advising parking availability for just one car park. Rather a co-ordinated dynamic parking signage plan should be implemented that covered all major car parks in Double Bay.

Provision of signage just for the Kiaora Lands car park on New South Head Road intersection of Manning Road and Kiaora Road would probably not warn drivers sufficiently in advance to be able to satisfactorily divert drivers to another car park if the Kiaora Lands car park was full.

In view of this we recommend that the condition be changed to make car park management system in the car park be designed to readily feed car park vacancy information to a co-ordinated overall Double Bay parking information system at such time as Council determines to install one.

Possible wording for the condition should be:

The car park control system installed in the car park pursuant to Condition F.22 shall be configured in a way that it could readily transmit car park occupancy information to a centralised Double Bay car parking information system at such time as such a system is installed.

Council's Manager-Engineering Services provided the following comments in relation to GTA Consulting's suggestion (see Annexure 2):

One of the major impacts associated with this development is traffic generation. Dynamic car park signage can help to reduce circulating traffic and help to maintain resident amenity.

I accept the comments put forward by GTA Consultants. That is, the dynamic smart signage on New South Head Road should refer to all of the major car parks in Double Bay.

However, I believe there is still benefit in having dynamic signage at the two car park entrances, indicating when the car park is full. This prevents unnecessary circulation in the car park and/ or vehicles being queued in the public roadway or across the footpath whilst waiting to determine if the car park is full or not.

It is therefore recommended that this condition be modified as follows:

F37 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 two proposed car park entrances. 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.

It is recommended that a further "I" condition be added as follows:

The car park control system installed in the car park shall be configured in a way that could readily transmit car park occupancy survey information to a centralised Double Bay car parking information system at such time as such a system is installed.

The comments of the Manager-Engineering Services, her recommended wording for condition F.37 and imposition of a further "I" condition (see condition I.34 in the recommendation of this report) are supported. Those changes are also consistent with the suggestions made by the applicant's traffic consultant.

The applicant's requested change 20 to delete condition F.37 is not supported. However the condition should be changed and an additional condition added as discussed above.

8.21 Requested change 21 – street lighting

It is requested that condition F.40 be amended as follows:

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 ~~to~~ for approval by Council's Technical Services Division.

Justification:

It is understood that Council and the Roads & Maritime Service (RMS) are responsible for existing street lighting and to ensure these are maintained in accordance with the Australian Standard. The applicant has proposed new street lighting to Kiaora Lane as part of the improvements to Kiaora Lane, however considers the request for upgraded street lighting in New South Head Road, Kiaora Road, Patterson Street and Anderson Street fails to provide a nexus with the proposed development, and should ordinarily have been provided by the relevant authorities to ensure lighting is in accordance with the Australian Standard. As such, it is requested that the condition be amended to reflect only new lighting in Kiaora Lane.

Assessment

Council's Manager-Engineering Services provided the following comments in relation to this request:

In relation to Condition F40, I did originally mistakenly refer to New South Head Road, which has newly installed multi-function poles and street lighting. New street lighting is therefore not required on New South Head Road. I am opposed to the removal of any other streets in Condition F40.

Street lighting is required to help ensure safety for motorists and pedestrians in the public roadway. The proposed development will significantly increase vehicle volumes and pedestrian volumes on all of the surrounding streets, including Kiaora Lane, Kiaora Road, Patterson Street and Anderson Street. There is therefore a need to improve road safety for these new vehicles and pedestrians, through an upgrade in the street lighting. The recommended condition only requires the lighting to be upgraded adjacent to the Kiaora Lands site.

The applicant has provided no reasonable justification to remove Kiaora Road, Patterson Street and Anderson Street from this condition.

It is therefore recommended that Condition F40 be worded as follows:

F40 Street lighting

The applicant is to upgrade the street lighting in 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.

The comments of the Manager-Engineering Services are supported. It is considered that there is a nexus between the development and the condition as, where existing street lighting is inadequate, it needs to be upgraded to the relevant standards due to the increased traffic volumes (both vehicular and pedestrian). Also, the condition relates to those sections of the streets which are adjacent to the development. The removal of reference to New South Head Road is justified. It is also appropriate for the requirement for details of the lighting to be submitted for approval by Council's Technical Services Division.

The applicant's requested change 21 to condition F.40 is, in part, supported. It would be appropriate to change the condition to delete reference to street lighting in New South Head Road.

8.22 Requested change 22 – roof top car parking – acoustic treatment

It is requested that condition F.42 be deleted:

~~*F.42 Rooftop carparking – acoustic treatment*~~

~~*Additional transparent acoustic lining shall be erected underneath the shade structure at the rooftop car parking level at Edge Conditions B & D (shown on Drawing No 3109 SK 564). Such lining is to provide acoustic attenuation to ensure that noise from the use of the rooftop car parking level outside of the hours referred to in Condition I.30 satisfies the acoustic requirements of this development consent. The objective of this condition is to ensure that residents in the Double Bay amphitheatre are not adversely affected by noise from the use of the rooftop car parking.*~~

Justification:

Fabcot have received advice from their consultant acoustic engineers at Reverb who has advised:

We strongly object to this condition. Material erected under the shade structure will provide a reflective surface for noise and render the acoustic barriers at the perimeter of the carpark ineffective, thus increasing noise levels in the adjacent residential area.

Note that the use of amphitheatre is incorrectly and commonly used to describe a noise catchment area. The Double Bay area adjacent to the proposal is not an amphitheatre. It could be argued that Urban Reverberation will occur although this does only become apparent where highly reflective tall buildings are on either side of a road and parallel to each other, resulting in elevation of noise by approximately +3dB(A), although this is far from this situation and will not occur.

Therefore, it is requested that this condition be removed.

Assessment

Following the submission of the s.96 application Council requested that additional information be provided in connection with a number of the requests, including requested change 22. In response a letter dated 31/10/12 was received from the applicant's noise consultant, Reverb Acoustics. Council's Senior Environmental Health Officer reviewed the SEE and the information from Reverb Acoustics and provided comments via a referral response dated 12/11/12, see annexure 3. In relation to the applicant's requested change 22 the following comments were made:

In response Reverb Acoustics has commented in letter dated 31 October, 2012 (Ref. No. 11-1605-L8) that 'Acoustic barriers 1200-1500mm in height have been specified at the perimeter of the car park. The shade structure is higher than these barriers and

inclusion of a transparent reflective surface at the car park perimeter underneath will raise the source height and render the acoustic barriers ineffective, resulting in an increase in noise levels by 5dB(A) or more at receivers. We therefore strongly object to inclusion of any reflective surface under the shade structure from an acoustics point of view'.

It is clear that Reverb Acoustics object to the inclusion of a reflective surface under the shade structure which may interfere with the effectiveness of the proposed sound barriers. However Reverb Acoustics does not refer to the many available transparent noise panels which are available in maintaining noise attenuation, such as for example polycarbonate panels; so if a non-resonant material barrier is extended to the underside of the shade structure would this not stop the loss of noise transmission through the opening between the proposed noise barriers and the shade structure, that is, preventing sound travelling over the top of the proposed sound barriers?

By extending the noise barrier with a noise maintaining attenuation material to the underside of the shade structure, in my opinion will further provide for the source noise to be absorbed and enhance to the 1200-1500mm noise control barriers at the perimeter of the roof of the car park.

I am in agreement with Reverb Acoustics that in providing a barrier without any added absorptive treatment (transparent reflective surface) is by default reflective; this means most of the noise is reflected back towards the noise source and beyond. In my opinion Reverb Acoustics has not provided a more detailed assessment and/or justification for deletion of this condition based on their response that a 'transparent reflective surface at the car park perimeter underneath will raise the source height'; in light of this I can only assume that if a non-resonant transparent noise maintaining material is used then the noise source can be effectively controlled.

RECOMMENDATION

Condition F.42 is to remain as originally conditioned as sufficient assessment and/or justification for its deletion has not been provided for by Reverb Acoustics.

The condition specifies a transparent acoustic lining to the underneath of the shade structures located on the western edge and on part of the southern edge, toward the eastern end of the building. The purpose of the condition is to protect the residents on the higher parts of the Double Bay valley from noise from the roof top carparking.

Reverb Acoustics refer to the lining as a transparent reflective surface material. Based on the available information the Senior Environmental Health Officer is of the opinion that use of a noise maintaining attenuation material, rather than the reflective surface referred to by Reverb Acoustics, will further provide for source noise to be absorbed and enhance the perimeter noise control barriers. He has also identified that transparent acoustic lining products are available.

It is also noted that a submission/objection to the s.96 application was accompanied by the following comment from Neil Gross, Director Wilkinson Murray Pty Limited, noise consultants:

We believe Reverb acoustics have misunderstood that the transparent barriers were proposed to be directly above the 1500 high balustrade at the perimeter of the

development to the height of the underside of the shade structure so we cant understand why increasing the height of the barrier would reduce its effectiveness. It appears Reverb believe the additional barriers are offset horizontally from the perimeter.

In the circumstances it is considered that the applicant's requested change 22, to delete consent condition F.42, not be supported.

8.23 Requested change 23 – noise from mechanical plant and equipment

It is requested that condition I. 14 be deleted:

~~*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 LA90, 15 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>) ISBN 0 7313 2715 2, dated January 2000, and Noise Guide/or Local Government (<http://www.environment.nsw.gov.au/noise/ngl.htm>) ISBN 1741370671, dated December 2004. Standard Condition: I53*~~

Justification:

Fabcot have received advice from their consultant acoustic engineers at Reverb who have advised:

This Condition is contradictory to the DCP and Condition I19 of the Consent, which states that single items are not exceed the background noise level and the cumulative noise level from all relevant items of mechanical plant and equipment must not exceed the background noise level by more than 5dB(A). To be contested and/or deleted from consent. Alternatively, this condition could be modified to be consistent with Condition I19.

As such the applicant requested that condition I.14 be deleted so as not to be inconsistent with Condition I.19, which states:

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 facade, 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.

Assessment

Council's Environmental Health Officer's comments in relation to this request are:

Reverb Acoustics have correctly stated that this condition is contradictory to the DCP and Condition I.19 of the Consent which states that single items are not to exceed the background noise level and the cumulative noise level from all relevant items of mechanical plant and equipment must not exceed the background noise level by more than 5dB(A).

To apply a consistent approach to noise emanating from mechanical plant and associated equipment, it would be appropriate for Condition I.14 to be deleted.

RECOMMENDATION

That Condition I.14 is deleted.

The standard under the Double Bay Centre DCP for noise from mechanical plant is in A2.5.3, C10. This standard is as stated in condition I.19 as referred to in the applicant's justification. It provides for the cumulative noise level not to exceed 5dB(A). The standard referred to in condition I.14 is the incorrect standard. The control of noise from mechanical plant is adequately addressed by condition I.19. It would therefore be appropriate to delete, rather than modify, condition I.14.

The applicant's requested change 23 to delete condition I.14 is supported.

8.24 Requested change 24 – hours of work – amenity of neighbourhood

It is requested that condition E.7 be amended as follows:

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 9~~7~~am or after 4pm any weekday, or before 9~~7~~am or after 1 pm 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 9~~7~~am or after 4pm any weekday, or before 9~~7~~am 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 9~~7~~am or after 4pm any weekday, or before 9~~7~~am or after 1 pm 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 (9~~7~~am to 4pm weekdays and 9~~7~~am to 1pm Saturdays) please consult with Council.

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

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

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

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

*Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6*

Justification:

The appointed builder has advised that in their experience it is commonplace throughout numerous local government areas in NSW that construction works are allowed to start at 7am and that it is commonplace for workers to commence at this time. In addition, the appointed builders have advised that should construction work not be allowed to commence at 7am, this will cause significant delays to the construction program adding to the length of time to complete works, lost productivity and additional costs. As such, the condition is requested to be amended.

Assessment

Council's Senior Environmental Health Officer provided the following comments on the applicant's requested changes to condition E.7:

Justification for the removal of this condition is purely based on causing significant delays to the construction program adding to lost productivity and additional costs.

The Environmental Noise Assessment conducted for the development predicted that a majority of the construction work activities were expected to exceed the day external construction noise criterion; noise levels as high as 87dBA are expected during piling activities at the closet residential location. The recommended deletion of this condition has not considered the environmental noise impact upon the neighbourhood; an assessment and comment from the acoustic consultant would have been expected.

Condition E.7 is consistently applied to major development works in the Woollahra Municipality; altering the hours of work so that construction activities can commence at 7am will have a significant impact in terms of noise to neighbouring residents.

RECOMMENDATION

Condition E.7 is to remain as originally conditioned as sufficient justification for its deletion has not been provided. The likely impact in terms of noise on the neighbourhood is significant and it is recommended that the scheduled hours of work as detailed in condition E.7 remain.

The construction of this retail/office/public carpark development is expected to take over 2 years. The Kiaora Lands development site is on the southern edge of the Double Bay commercial area and there is residential development immediately to its south. This transition in development from commercial to residential is consistent with the differing land use zonings which apply in this part of Double Bay.

The applicant's request relates to that part of condition E.7 that refers to particularly noisy construction works. While the condition prevents certain particularly noisy construction activities commencing before 9am it allows other work to commence 7am. There may be circumstances in other areas where it may be appropriate for any construction activities to start at 7am. However, this is considered to be unlikely in an urban area where a major construction site is located adjacent to residences and in the absence of onerous noise mitigation measures being in place. The impact of the condition on the construction program and costs needs to be weighted against the environmental impacts on the occupants of the properties which surround the construction site.

The Senior Environmental Health Officer's recommendation is generally supported, i.e. that condition E.7 be retained in its original form. Enquiries have revealed that in some situations the Council's standard working hours, as stated in condition E.7, have been relaxed for construction works in the Double Bay commercial centre. However, those situations have been limited to internal fit-outs to commercial properties.

The New South Head Road building will be some distance from the residential development due to the proportions of the Kiaora Lane building site which is located to its south. It abuts existing commercial development immediately to its east and west and fronts onto busy New South Head Road. Construction of the New South Head Road building is not intended to commence until the Kiaora Lane building is nearing completion. Therefore, noise associated with those certain noisy construction activities would be 'shielded' by the New South Head Road building from the residential properties to the south. In the circumstances it is considered that an 8am starting time for the noisy construction activities in connection with the New South Head Road building only would be reasonable.

Reference in condition E.7 to machine excavation (d) (vii)), should also be deleted as this activity is covered in condition D.9. Condition D.9, which is also the subject of the s.96 application, requires a Construction Management Plan (CMP) to be submitted to Council and approved by Council's Traffic Engineer. Among the matters the CMP is required to address is excavation, including excavation only being carried out outside peak and school hours between 9.30am to 2.30pm weekdays. The amount of excavation required as part of this development is limited and it is unlikely that solid materials will be encountered. Therefore, it is considered that excavation impacts can be more appropriately dealt with as part of the CMP approval including the appropriate restrictions that should apply to the times that such activities may be carried out.

The applicant's requested change 24 to modify condition E.7 is, in part, supported.

8.25 Requested change 25 – filling of site

It is requested that condition E.17 be amended as follows:

E.17 Filling of site

To the extent that this consent permits filling of the site such fill is to consist of either must be virgin excavated natural material ("VENM") or soil redistributed from the subject site which is of a suitable standard as required by the site auditor.

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/OI2648web.epa%20fill.dl%20bro.pdf>

Standard Condition: E 18

Justification:

The builder has advised that the recycling and redistribution of suitable soil from the site

(as deemed suitable by a site auditor) rather than importing fill will have less impacts including less truck movements and less costs to the project. Therefore, this option has been included in the amended wording of the condition.

Assessment

Council's Senior Environmental Health Officer made the following comments in response to this request:

Modification of this condition has been justified on the basis that the builder has advised that the recycling and redistribution of suitable soil from the site rather than importing fill will have less impacts in terms of truck movements and reduced costs to the project. Only soil that is deemed suitable by the accredited site auditor will be used on the site.

RECOMMENDATION

Condition E.17 be amended to read as follows:

To the extent that this consent permits filling of the site such fill is to consist of either ~~must~~ be virgin excavated natural material ("VENM") or soil redistributed from the subject site which is of a suitable standard as required by the site auditor.

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*

The Senior Environmental Health Officer's comments and the applicant's requested change 25, to modify condition E.17, are supported.

Requested change 26

It is requested that condition D.9 be amended as follows:

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 (also refer to condition E.32 regarding restrictions on the use of Court Road).*
- *During construction, no heavy vehicles associated with the site are to utilise Manning Road (south of Court Road), Kiaora Road (south of Court 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 car parking 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 7am ~~9.30am~~ to 4pm ~~2.30pm~~ week days and 7am and 1pm Saturdays

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.

This condition does not apply to the initial phase of site development and the preliminary construction management plan prepared by Caverstock shall apply, and there will be no need for referral to the Local Traffic Committee for the initial phase which includes:

- *Demolition;*
- *Piling;*
- *Installation of in-ground services within the site; and*
- *Ground floor slab construction.*

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 (Auto text: DD9)

Justification:

The requested change is to enable the initial phase of the site development to proceed and the construction program be subject to the referral to the local traffic committee. It should be noted that condition E.32 prevents construction trucks using Court Road and so the consent already provides amenity protections. The condition is also requested to be amended to be consistent with condition E.7.

It is considered that the proposed modifications listed above for Development Consent No. 531/2011/1 will not result in any significant variance from the approved development and the approved development will remain substantially the same.

Assessment

Council's Manager-Engineering Services commented as follows in respect to this requested change:

With regard to Condition D9, the need for a construction management is essential for all phases of the development. I am opposed to the request that this condition not apply during demolition, piling, the installation of in-ground services within the site and the ground floor slab construction. The preliminary construction management plan submitted with the development application was sufficient for the initial assessment and an "in principle" approval. However, this preliminary plan lacked detail to fully assess and manage construction impacts, particularly as a builder had not been appointed to the project.

This development will be one of the largest undertaken in Double Bay for many years. The local community near the Kiaora Lands site will be greatly impacted by this development during construction. It is essential that the applicant introduce appropriate and reasonable means to mitigate the impacts of construction as far as possible. These mitigation measures will need to be implemented during all phases of construction.

The applicant has provided no reasonable justification to remove this condition.

The above comments are supported. The terms of conditions D.9 and E.7 as they relate to excavation have been discussed in relation to the applicant's requested change 24 to modify condition E.7.

9. SUBMISSIONS

The proposal was advertised and notified in accordance with the regulations. Twenty two (22) submissions were received objecting to the proposal. The people who objected and their reasons are shown below:

Peter & Maggie Bablis, Bablis Investments Pty Ltd, 4, 6 and 8 Patterson Street, Double Bay:

- Item 2.2.5 – noise from loading dock
- Item 2.2.9 – roadworks
- Item 2.2.26 – construction management plan
- Other matters, i.e. traffic control at the Manning Road/Patterson Street intersection, restriction on the illumination of signage, restriction on the hours of the Patterson Street entry/exit, restriction on hours of the loading dock, mechanical plant not to be located in Patterson Street, and access to their home

Gary and Patricia Burg, 21 Court Road, Double Bay:

- Woolworths seeking exceptional treatment to remove standard conditions

Wendy Cohen, 4a/21 Thornton Street, Darling Point:

- Looks forward to using an accessible library

- Question if there is a lift to all levels of the library
- The lack of a shelter to Kiaora Lane

Gillian Dar, 48 Carlotta Road, Double Bay:

- The objections are the same as those raised in Philip Mason's objection

C R Edwards, 1/8 Kiaora Road, Double Bay:

- Objects to any changes and in particular 7, 16 and 18

Bruce Forster, apts 1 and 2, 16 Court Road, Double Bay:

- Significant concerns with arguments in support of modifications which relate to costs, contracts with council and other matters unrelated to the DA
- Requested change 3, condition B.1 – requirement for a construction certificate prior to demolition
- Requested change 5, condition C.11)iii, iv, v and vii – noise from carpark and loading docks
- Requested change 7, condition C.1n – boom gates to Kiaora Road carpark entry
- Requested change 11, condition C.7 – landscaping in the area between the substation and the street
- Requested change 13 (& 14), condition C.18 (& C.26) – stormwater drainage system
- Requested change 16, condition F.20 – acoustic treatment of vehicle ramp
- Requested change 17, condition F.22 – electronic vacant carparking space identification
- Requested change 18, condition F.33 – traffic calming at the Manning Road/Patterson Street intersection
- Requested change 19, condition F.34 – intersection treatment at the Kiaora Road carpark and loading dock entrances
- Requested change 22, condition F.42 – acoustic treatment of rooftop carpark
- Requested change 23, condition I.19 – mechanical plant noise
- Requested change 24, condition E.7 – hours of work
- Requested change 26, condition D.9 – construction management plan

Anthony Gow-Gates, 5/16 Court Road, Double Bay

- Ensure that what has been agreed to is maintained and in particular requested changes 2.2.5, 2.2.7, 2.2.16, 2.2.17, 2.2.19, 2.2.22, 2.2.23, 2.2.24 and 2.2.26

A I Gregory, 26 Glendon Road, Double Bay:

- Objects generally to the application

Michael and Linda Jaku, 4A Court Road, Double Bay:

- Objects to changes and deletions

Alexandra Joel, 6 Court Road, Double Bay:

- Proposal seeks exemptions from requirements that apply to all other developments
- Because of its contractual relationship Council should not be seen to be favouring Woolworths
- Requested changes 13 (condition C.18 – stormwater), 24 (condition E.7 – work hours) and 26 (condition D.9 – Construction Management Plan)
- Anderson Street shown as a 2 way street

Michael Lawrence, 9 Wiston Gardens, Double Bay:

- Asks that the application be turned down as it is totally unmerited

Eia Stanch Lynam, 18 Forrest Road, Double Bay:

- Supports Mr Philip Mason's objections

Philip Mason, President Double Bay Residents' Association Inc.:

- General observations:
 - Applicant's assertion about inadequate consultation is incorrect
 - Applicant is seeking exceptional treatment to remove standard conditions
 - Applicant's justifications based on cost and time are irrelevant
 - Applicant's justification based on conditions being 'outside the agreed contractual arrangements with Council' are irrelevant
 - Anderson Street being shown as a 2 way street
- Requested change 3, condition B.1
- Requested change 5, condition C.1iii), iv), v) and vii)
- Requested change 7, condition C.1n)
- Requested change 9, condition C.4
- Requested change 11, condition C.7
- Requested change 13, condition C.18
- Requested change 14
- Requested change 16, condition F.20
- Requested change 17, condition F.22
- Requested change 18, condition F.33
- Requested change 19, condition F.34
- Requested change 20, condition F.37
- Requested change 21, condition F.40
- Requested change 22, condition F.42
- Requested change 23, condition I.19
- Requested change 24, condition E.7
- Requested change 26, condition D.9

Tony Moody, Moody & Doyle Pty Ltd, on behalf of the Double Bay Residents Association:

- supports submissions from Mr P Mason and Mr M Young
- does not agree with the applicant about lack of consultation
- concerned about the applicant's references to 'agreed contractual arrangements'
- applicant's justification based on 'cost and time'
- deletion of standard conditions would set a precedent for other developments, e.g. approval of stormwater drainage system design and location

David Mortimer AO, 14-16 Wallaroy Road, Double Bay:

- concurs with Mr Phillip Mason's submission

Mark Newson, 1/13 Manning Road, Double Bay (including a petition with 35 signatories):

- objects to removal of condition F.33, requested change 18 which requires traffic calming at the Manning Road/Patterson Street intersection. Specific concerns:
 - traffic disruption and increase in Manning Road
 - sight distances at the intersection
 - pedestrian safety on Manning Road
 - crash data from U-turns on Manning Road

- environmental impact, i.e. noise and air quality
- suggests a number of options for traffic calming
- Patterson Street as a carpark entry only

Ms Nizza Siano, 16 Holland Road, Bellevue Hill:

- Woolworths seeking special treatment by asking that conditions be varied or deleted
- Changes to work hours, noise from the carpark ramp, acoustic lining of the rooftop carpark and traffic calming at the Manning Road/Patterson Street intersection

Mark Silcocks, 19 Court Road, Double Bay:

- Supports the conditions as imposed; Applicant's assertion about inadequate consultation is incorrect; Applicant is seeking exceptional treatment to remove standard conditions; Applicant's justifications based on cost and time are irrelevant; and Anderson Street being shown as a 2 way street
- Requested change 9, condition C.4
- Requested change 11, condition C.7
- Requested change 13, condition C.18
- Requested change 16, condition F.20
- Requested change 22, condition F.42
- Requested change 23, condition I.19
- Requested change 24, condition E.7
- Requested change 26, condition D.9

Doris Stewart, 2 Court Road, Double Bay:

- objects to any modifications

Anthony Tregoning, 12 Pine Hill Avenue, Double Bay:

- supports the submission of the Double Bay Residents Association

Michele Wearn, 5 Court Road, Double Bay:

- concerned about changes to the condition restricting the use of Court Road by heavy vehicles
- concerned about Anderson Street being shown as a 2 way street

Malcolm Young, 10 Pine Hill Avenue, Double Bay:

- suggestion that the applicant or its consultants was not adequately consulted on the original conditions is nonsense
- many of the conditions the subject of the application are standard conditions and should not be departed from on a development of this size; general disquiet should planning give way to economics; and profitability is not a relevant planning consideration
- requested change 22, condition F.42 Rooftop carparking – acoustic treatment (this objection is supported by comments by Wilkinson Murray's Neil Gross
- requested change 5, condition C.11 iii, iv, v and , vii – relating to noise from the carpark and loading docks
- requested change 7, condition C.1n – boom gates at the Kiaora Road entry to the carpark
- requested change 9, condition C.4 – road and infrastructure in Patterson Street
- requested change 11, condition C.7 – screening and setback of the new substation

- requested changes 13 & 14, conditions C.18 & C.26 – council approval for the stormwater system
- requested change 16, condition F.20 – acoustic treatment to vehicle ramp
- requested change 17, condition F.22 – electronic space identification
- requested change 18, condition F.33 – traffic calming at the Manning Road/Patterson Street intersection
- requested change 19, condition F.34 – linemarking in Kiaora Road
- requested change 20, condition F.37 – smart signage indicating when the carpark is full
- requested change 21, condition F.40 – upgrade street lighting
- requested change 23, condition I.19 – noise from mechanical equipment
- requested changes 24 and 26, conditions E.7 & D.9 – work hours for poling, piercing and boring etc.

The matters raised in the submissions are principally addressed in the part 8 of this report. Some submissions object generally to all of the s.96 application. The following table is a summary of the assessment/recommendation of this report in respect to the applicant's requested changes. The requested changes shown highlighted in the table are those which were not specifically referred to in objections.

Summary of report's assessment/recommendations				
Requested change	Condition affected	Support	Support in part	Not support
1	Condition A3 Approved plans and supporting documentation – this request includes amended plans		•	
2	A5(h) Traffic generating development (delete condition)	•		
3	B1 Prior to demolition of any building or construction	•		
4	C Conditions which must be satisfied prior to the issue of any construction certificate (heading)	•		
5	C1 Modification of details of the development (s80(1)(g) of the Act), l)iii, iv, v and vii		•	•
6	C1 Modification of details of the development (s80(1)(g) of the Act), m)			•
7	C1 Modification of details of the development (s80(1)(g) of the Act), n)		•	
8	C3 Certification of gross floor area			•

9	C4 Roads and public domain works		•	
10	C6 Utility services generally	•		
¹ 11	C7 Provision of energy supplies			
12	C17 Parking facilities	•		
13	C18 Relocation or reconstruction of Council's stormwater drainage system			•
14	C26 Amended stormwater drainage plan			•
15	C28 Detail for office plant space, gas heating ventilation and air conditioning (delete condition)			•
16	F20 Acoustic treatment - vehicle ramp between carparking levels (delete condition)		•	
17	F22 Electronic vacant car parking space identification (delete condition)		•	
18	F33 Traffic calming device - Manning Road/Patterson Street intersection (delete condition)			•
19	F34 Intersection treatment- Kiaora Road/car park and loading dock entrances		•	
20	F37 Installation of dynamic/live smart signage (delete condition)		•	
21	F40 Street lighting		•	
22	F42 Roof top car parking - acoustic treatment (delete condition)			•
23	I14 Noise from mechanical plant and equipment (delete condition)	•		
24	E7 Hours of work-amenity of neighbourhood		•	
25	E17 Filling of site	•		
26	D9 Construction management plan			•

¹ Requested change 11 to amend condition C.7 has been withdrawn by the applicant

Comments have been made in the report on the relevance or otherwise of applicant's justifications based on contractual arrangement between Woolworths and Council and the impact on the cost/viability of the development. These are not matters which have been taken into consideration in the assessment of this s.96 application.

Where conditions imposed on the original consent are recommended to be deleted or varied this is because their deletion or variation has been assessed as not resulting in negative planning or environmental outcomes. The recommended deletions and/or variations may have consequences in terms of the costs to the developer but this is not the reason that they have been recommended.

Matters raised in the submissions and not addressed in part 8 of this report are the accessibility issues raised by Ms Cohen. These are not the subject of the s.96 application. However, the library building will contain a lift which will service all floor levels of the library.

10. CONCLUSION - THE PUBLIC INTEREST

The objectives for development of the Kiaora Lands site, as set out in A2.2 of the Double Bay Commercial Centre DCP, have a high public interest focus. The proposal in its original form was considered to have positive public interest outcomes in terms of community facilities/amenities and its impact on the business centre. These were balanced with the amenity of residents due to the close proximity of to the development of residential properties.

It is considered that the proposed modifications will not diminish the positive public interest outcomes of the development at the same time maintaining the safeguards on residential amenity, subject to the recommendations of this report.

The proposed modifications are acceptable against the relevant considerations under S96(2) of the Act and would be in the public interest subject to the recommendations of this report being adopted.

11. 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.

12. RECOMMENDATION: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT Council, as the consent authority, modify development consent to Development Application No. DA 531/2011/2 for a retail, commercial, public library and public parking development on land at 433-451 New South Head Road, 1, 2, 3, 4, 5, 6 & 7 Kiaora Road, 1, 2, 3-7 & 4 Anderson Street, 1-9 & 2 Patterson Street and parts of Anderson Street, Kiaora Lane and Patterson Street, DOUBLE BAY, in the following manner:

A. Include the following additional conditions:

A.10 Development Consent is not granted in relation to these matters

The modification of development consent vide DA531/2011/2 does not approve the relocation of the electricity substations from the locations shown on the plans in respect of which development consent was originally granted.

Standard Condition: A9 (Autotext AA9)

C10) Kiaora Road carpark entrance

The Kiaora Road carpark entrance must have the operating capacity to admit a minimum of 600 vehicles per hour. The applicant may be able to meet this condition through the *installation of one or two boom gates, subject to the equipment specifications. The applicant must demonstrate to the satisfaction of Council's Technical Services Division, that the specifications for the boom gate/s and associated equipment meet this requirement prior to the issue of the Construction Certificate.*

This condition is imposed to prevent inbound vehicles to the car park 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.

E.33 Landscape treatment of roof garden

Specific details of the proposed landscape treatment of the roof garden on the southern side of the Kiaora Lane building being submitted to Council for approval prior to the area being planted.

F.43 Noise from electricity substations

Any noise from the electricity substations being attenuated as may be necessary to prevent the emission of noise that would exceed the nocturnal background noise level when measured at the nearest, or any other, residential property façade at any time of the day or night in accordance with the Double Bay Centre Development Control Plan 2002, A2.5.3, C10.

I.33 Kiaora Road carpark entrance – operating capacity

The Kiaora Road carpark entrance must have the operating capacity to admit a minimum of 600 vehicles per hour.

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.

I.34 Configuration of carparking control system

The carpark control system installed in the carpark shall be configured in a way that could readily transmit carpark occupancy survey information to a centralised Double Bay car parking information system at such time as such a system is installed.

This condition is imposed with regard to the traffic impacts of the development.

I.35 Operation of loading dock doors

Loading docks are to be operated so as to satisfy the Double Bay Centre Development Control Plan, A2.5.3, C11. For this purpose the following measures are, as a minimum, to apply in relation to the operation of the loading dock doors referred to in condition C.11)iii:

- delivery vehicles are not to begin reversing until loading dock doors are shut
- unloading and loading of delivery vehicles and use of compactors are not to commence until loading dock doors are shut

Staff assigned to the loading dock areas are to be made aware of these noise control measures.

B. The heading to conditions in Section C of the development consent notice being changed to read as follows:

- C. *Conditions which must be satisfied prior to the issue of the relevant construction certificate or, as may be stipulated, prior to the issue of any construction certificate***

C. Deletion of the following conditions:

C.11)v

C.1n)

I.14

D. The following conditions being amended to read:

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	November 2011
11-1605-L2	Addendum to Reverb Acoustics Report 11-1605-R1	Reverb Acoustics	1/3/12
3109_SK_563	Acoustic control plan	nettletontribe	February 2012
3109_SK_564	Acoustic control-sections	nettletontribe	February 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	Ground Floor 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_042-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	January 2012
3109_SK552	Ramp Layout - Sections	nettletontribe	January 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	April 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	March 2010
E12616/1-BY	Hydrogeological Report	Coffey	16/10/03
Landscape Plans			
09582_LSK_000 E	Cover Sheet & Schedules	context	November 2011
09582_LSK_001 E	Tree Retention/Removal Plan	context	November 2011
09582_LSK_002 E	Landscape Concept Plan	context	November 2011
09582_LSK_003 E	Plaza Landscape Concept Plan	context	November 2011
09582_LSK_004 E	Kiaora Lane and Patterson Street Connection	context	November 2011
09582_LSK_005 E	Section A-A	context	November 2011
09582_LSK_006 E	Section B-B	context	November 2011
09582_LSK_007 E	Section C-C	context	November 2011
09582_LSK_008 E	Section D-D	context	November 2011
09582_LSK_009 E	Section E-E & I-I	context	November 2011
09582_LSK_010 E	Typical Landscape Details	context	November 2011
09582_LSK_011 E	Planting Palette + Schedule	context	November 2011
473AIA	Arboricultural Impact Assessment	Tree Wise Men Australia Pty Ltd	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 Pty Ltd	June 2012
3577 H-02 03	Ground floor plan	Warren Smith & Partners Pty Ltd	18/10/11
3577 H-03 03	Level 1 floor plan	Warren Smith & Partners Pty Ltd	18/10/11
3577 H-04 03	Level 2 floor plan	Warren Smith & Partners Pty Ltd	18/10/11
3577 H-05 03	Level 3 floor plan	Warren Smith & Partners Pty Ltd	18/10/11

3577 H-06 03	Level 4 roof floor plan	Warren Smith & Partners Pty Ltd	18/10/11
3577 H-07 03	Rectification and connection of existing stormwater discharge into Kiaora Lane	Warren Smith & Partners Pty Ltd	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
Project No: 209/058/47 RPT –Final	Statement of Environmental Effects	TPG	November 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)
Traffic Report			
Revision 5	Traffic report	Halcrow	19/10/11
Letter	Council's request for additional information	Halcrow	10/2/12
	Waste Management Plan	JD MacDonald	February 2012
Ecologically Sustainable Development Reports			
	Woolworths Sustainable Design	Fabcot Pty Ltd	May 2011
6018326	ESD Review	AECOM	5/4/11
SM0084:29650 R01	Hazardous materials survey report	McNally Management Pty Ltd	Revision 1 – December 2010
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	October 2011
(SEE appendix Z)	Trolley management plan		
	Letter	Sydney Water	10/2/12

And as amended by the works shown by clouding on following plans:

Reference	Description	Author/Drawn	Date(s)
Architectural Plans			
3109_DA_002-F	Site Plan/Roof Plan	nettletontribe	26/9/12
3109_DA_003-E	Ground Floor Plan	nettletontribe	26/9/12
3109_DA_004-D	First Floor Plan	nettletontribe	26/9/12
3109_DA_005-E	Second Floor Plan	nettletontribe	26/9/12
3109_DA_006-F	Third Floor Plan	nettletontribe	26/9/12
3109_DA_011-E	Ground Floor Plan	nettletontribe	26/9/12
3109_DA_012-E	First Floor Plan	nettletontribe	26/9/12

3109_DA_013-E	Second Floor Plan	nettletontribe	26/9/12
3109_DA_014-G	Roof Plan	nettletontribe	26/9/12
3109_DA_015-C	Library & Mixed Use Ground Floor Plan	nettletontribe	26/9/12
3109_DA_021-E	Streetscape Elevations	nettletontribe	26/9/12
3109_DA_023- C	Library & Mixed Use Streetscape Elevations	nettletontribe	26/9/12
3109_DA_024-E	Elevations	nettletontribe	26/9/12
3109_DA_025-D	Library & Mixed Use Elevations	nettletontribe	26/9/12
3109_DA_041-E	Finishes Schedule	nettletontribe	26/9/12
3109_DA_042-C	Library & Mixed Use Finishes Schedule	nettletontribe	26/9/12
3109_DA_054-E	Signage	nettletontribe	26/9/12
3109_DA_055-B	Library & Mixed Use Signage	nettletontribe	26/9/12

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

- C.1d)iii** Automated solid acoustic roller shutter doors are to be provided to all loading dock areas to ensure that there is no break-out noise from the delivery vehicle activities and compactor use.
- C.1d)iv** That acoustic treatment shall be provided to the underside of the ceilings in the entry and exit areas of the ground level carpark to control noise leakage paths by providing an effective reduction of the reverberant characteristics resulting from vehicular movements.
- C.1d)vii** The ceiling 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.

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

Omitted

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. Revised plans prepared by Brown Consulting Dwg No's C4-00, C4-01, C4-30, C4-40, C4-41, C4-60, C4-80, C4-90, C4-91 Rev B dated 28.09.2012 have been 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.
- Full footpath, kerb and gutter details.
- 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. Advising*s of this Consent titled *Roads Act Application*.

Standard Condition: C13 (Autotext CC13)

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 the relevant 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.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, ASINZS 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 except where required to be amended, provided and maintained by this consent.

Standard Condition: C45

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; or
 - (vi) Jack hammering;
- 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.

Item d) of this condition does not prevent the works referred to in that item from commencing from 8am in respect to the construction of the New South Head Road building.

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 downloaded from <http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see http://www.epa.nsw.gov.au/resources/ci_build_sheet7.pdf
Standard Condition: E6

E.25 Filling of site

To the extent that this consent permits filling of the site such fill is to consist of either virgin excavated natural material ("VENM") or soil redistributed from the subject site which is of a suitable standard as required by the site auditor.

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

F.20 Acoustic treatment – vehicle ramp between carparking levels

The ramp between the carparking levels being designed to satisfy the Double Bay Centre Development Control Plan, A2.5.3, C11. For this purpose the ceiling adjacent to the opening of the upper car park deck area 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.

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. Such a system may consist of:

A car space counting system that captures the following information:

- Cars entering and exiting at each external access point
- Cars entering and exiting the secured long stay parking on the roof top level, and
- Cars travelling up and down the ramp

Dynamic signage being provided at each entry to advise the driver of an entering vehicle the number of spaces available on each parking level. Static signage indicating the route from the entry to the roof top level parking is to supplement this signage.

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 utilising line marking in Kiaora Road. 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 dock driveway, with concrete 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. This may require the removal of parking on the eastern side of Kiaora Road. 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.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 two proposed car park entrances. 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.40 Street lighting

The applicant is to upgrade the street lighting in Kiaora Lane, Kiaora Road, Patterson Street and Anderson Street, adjacent to the site, to the Australian Standard 1158. 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.

E. The following additional advisings

K.28 Details of ecologically sustainable measures

Specific details of the ecologically sustainable development measures alluded to in the Statement of Environmental Effects prepared by TPG and dated September 2012, part 2.2.1 under the heading *Justification*, 6th dot point (e.g. photovoltaic cells on the roof of the travelator lobby) are to be submitted for approval prior to installation. This may require either the submission of a further modification application under section 96 of the Environmental Planning and Assessment Act 1979 or a new development application.

K.29 Building design/road traffic noise

The applicant is advised that durable materials should be incorporated into the design of the New South Head Road building to mitigate the impacts of road traffic noise from New South Head Road on future users of the development.

Mr P Kauter
Executive Planner

Mr A Coker
Director-Planning & Development

ANNEXURES

1. Plans and elevations
2. Development Engineer's referral response
3. Senior Environmental Health Officer's referral response