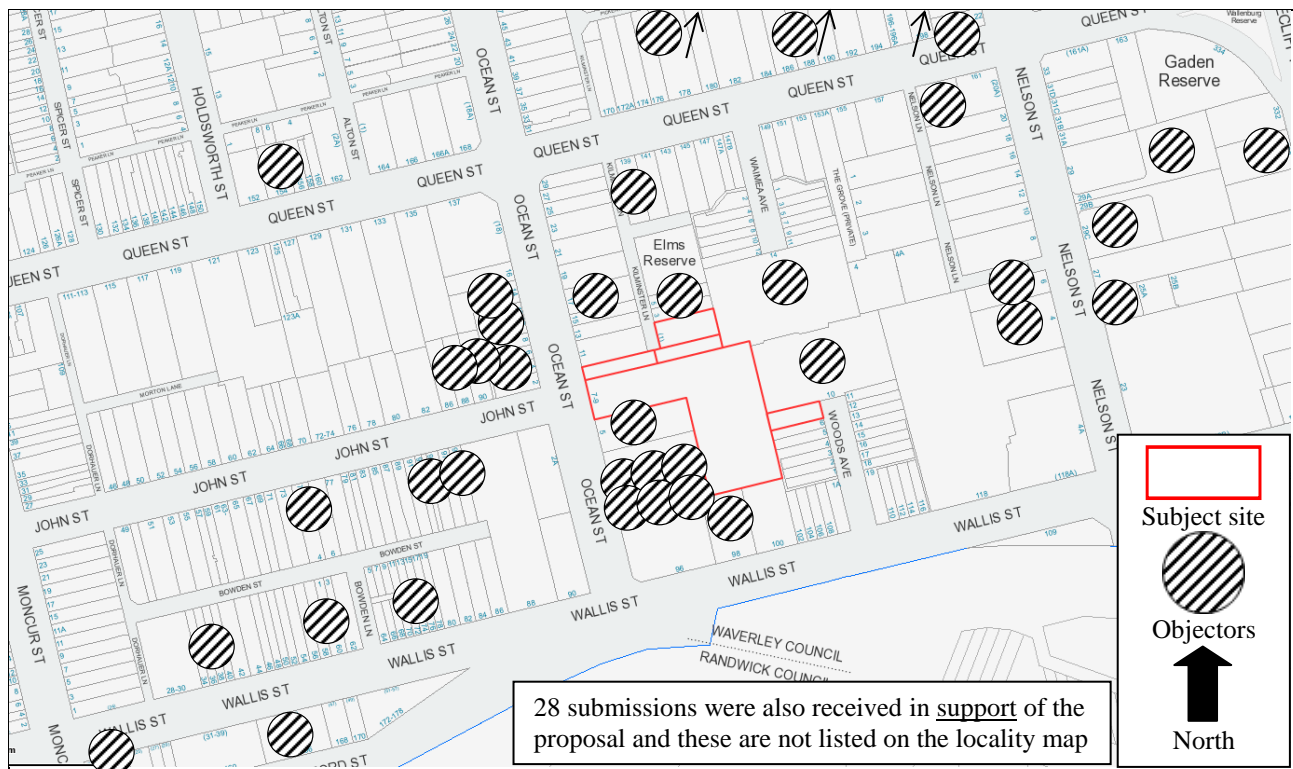


DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	
FILE No.	DA307/2015/1
ADDRESS	7-9 Ocean Street Woollahra (Emanuel Synagogue)
SITE AREA	3,996m ² (comprising five allotments)
ZONING	R2 Low Density Residential (existing use rights apply)
PROPOSAL (AS NOTIFIED)	Demolition of the Neuweg Chapel, administration building to the north of the Emanuel Synagogue, the child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement car park for 14 vehicles with new vehicular entry and forecourt; a new two storey building to the north of the Emanuel Synagogue containing archives/meeting room, small sanctuary for approximately 30 people, learning centre, new lift and walkways and a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and associated playground area, staff area, amenities, new lift and walkway and mid-size sanctuary for approximately 300 people and art gallery on the first floor level. The proposal also involves landscaping, new fences, ancillary structures and site works
TYPE OF CONSENT	Local development
COST OF WORKS	\$11,615,985
DATE LODGED	12 June 2015
APPLICANT	Creative Resolution (Australia) Pty Ltd
OWNER	Emanuel Synagogue
AUTHOR	Mr Simon Taylor
TEAM LEADER	Mr David Waghorn
SUBMISSIONS	65 in total – 37 against the proposal and 28 for the proposal
RECOMMENDATION	Approval, subject to Condition C1
DETERMINING BODY	Joint Regional Planning Panel (Sydney East)
JRPP MEETING DATE	4 November 2015

SUMMARY

1. LOCALITY PLAN



2. LEVEL OF DELEGATION

The application is to be determined by the Joint Regional Planning Panel (Sydney East Region) as it includes a child care centre within a development that has a total capital investment value (CIV) of more than \$5 million.

3. PROPOSAL

The proposal involves the following works:

- Demolition of the Neuweg Chapel in the forecourt to Ocean Street, administration building to the north of the Emanuel Synagogue and the child care centre classrooms to the south of Emanuel Synagogue
- The construction of a new basement carpark for 14 vehicles (including two accessible car spaces) and bicycle parking with a new vehicular driveway and raised forecourt to Ocean Street
- A new two storey building to the north of the Temple Emanuel (Progressive Synagogue) containing archives/meeting room, sanctuary for approximately 30 people, storage and toilets on the ground floor, a learning centre on the first floor with a new lift and two walkways linking to the first floor of the Progressive Synagogue
- A new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre with three interconnected learning areas, staff area, storage and amenities on the ground floor, covered and uncovered playground area attached to the east and south of the building, a sanctuary for approximately 300 people and attached flexible art gallery space on the first floor level with a new lift and walkway between the two levels and connections to the Progressive Synagogue

- Landscaping, paving, walkway and pergola structure over the driveway in the forecourt to the Ocean Street frontage
- New fence/screen to Ocean Street up to 4.0m in height and fencing to all side boundaries varying in height from 1.8m-2.5m
- Fort/playground structure around the Moreton Bay fig in the Woods Avenue entrance
- Plant areas to the southern side of the main Sanctuary building
- Removal of about 14 trees, retention of about 10 trees, planting of numerous replacement trees and other site works



Photomontage from Ocean Street

4. ISSUES

4.1. Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

None – existing use rights apply.

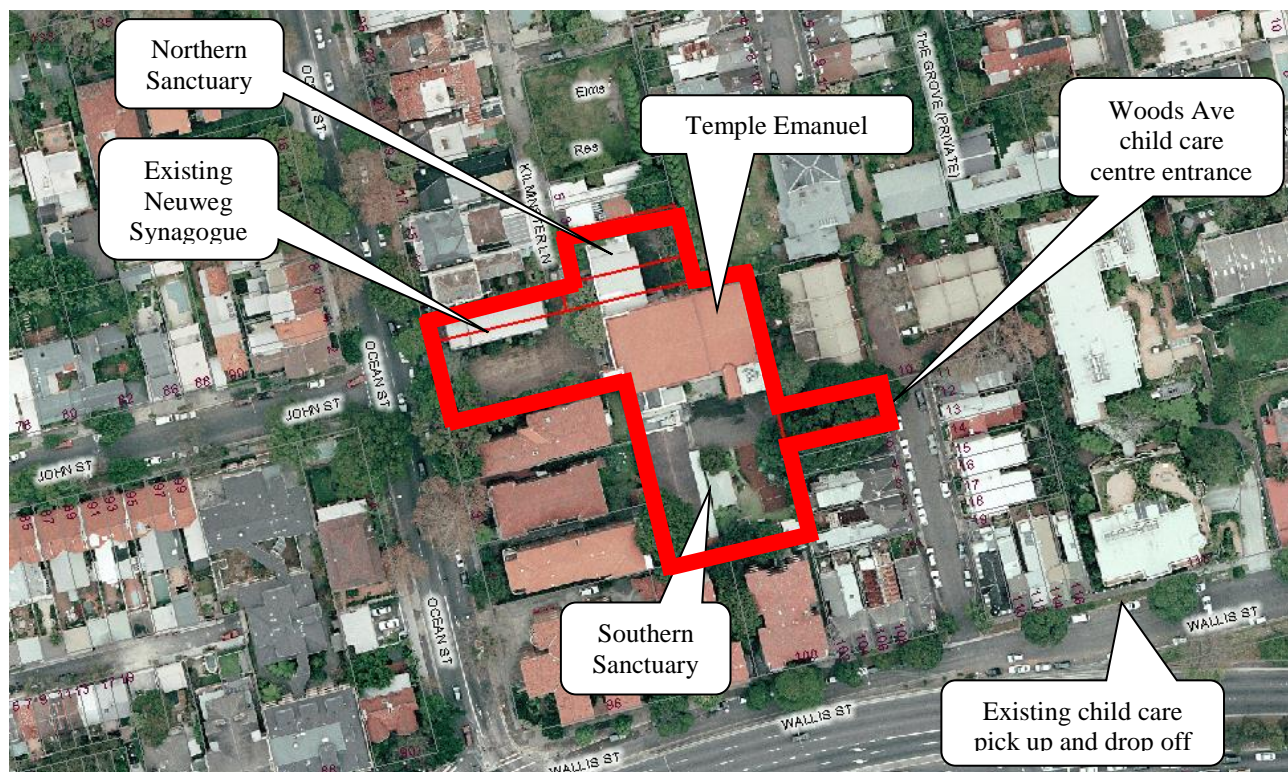
4.2. Primary Issues and Summary of Submissions

Issue	Conclusion	Section
Lack of parking	Council's Traffic Engineer opposes the development due to a lack of parking. However, on balance, the application represents a satisfactory outcome.	10.3.18
Traffic congestion	There is likely to be an increase in traffic generation as a result of the expansion of facilities on the site. However, the impact is insufficient to warrant refusal of the application. Access to the driveway is appropriate.	10.3.19
Driveway	Condition C1 requires the widening of the driveway to allow two way access.	17.2
Acoustics	With the addition of a 1.8m high acoustic screen around the child care play area and when subject to limitations upon the use of the outdoor play area, the proposal will achieve an acceptable acoustic outcome for surrounding residents. The plant area, traffic noise and congregation noise associated with the development is also satisfactory on acoustic grounds, subject to acoustic treatment or ongoing measures in Conditions C1, C16-C18, F2 and I1-I5 .	10.3.13
Visual privacy	Subject to various modifications to the building design in Condition C1 , the proposal affords an acceptable level of visual privacy to surrounding properties.	10.3.12
Scale and form of building	Condition C1 requires modifications to both buildings to achieve consistency in setbacks, built form and height, including: <ul style="list-style-type: none"> • A lowering in the height and increased western setback of the southern Sanctuary building 	10.3.9 and 10.3.11

Issue	Conclusion	Section
	<ul style="list-style-type: none"> An increased rear setback to the northern Sanctuary building as well as the deletion of the walkway connecting to the Progressive Synagogue 	
Inconsistent with the HCA	The contemporary block and flat roof form of the two new buildings are appropriate in the context of the Progressive Synagogue, surrounding inter war flat buildings and the Woollahra heritage conservation area. Condition C1 also requires a lowering of the southern Sanctuary building to achieve a subservient form and to alleviate amenity issues.	10.3.4
Demolition of Neuweg	By definition, the Neuweg building is part of the heritage listing of the site. The demolition of this building, however, is not opposed by Council's Heritage Officer.	10.3.1
Overshadowing	The proposal results in additional and unreasonable overshadowing of the north facing windows to units on the ground floor of residential flat buildings at 98 and 100 Wallis Street. A lowering in height of the building is required in Condition C1 .	10.3.14
Loss of outlook	The proposal will remove a leafy outlook from properties to the south and west and replace it with building bulk. This is not unreasonable.	10.3.8
Loss of trees and landscaping	<p>Whilst several trees are removed, the net outcome is a satisfactory landscape character for the site which is supported by Council's Trees Officer.</p> <p>Condition A4 and B6 as well as specific building modifications in Condition C1 are necessary to ensure that there is no unnecessary pruning of trees to be retained. This includes the retention of existing canopies to the heritage listed Moreton Bay fig and trees along the eastern boundary with 14 Waimea Avenue, with building modifications to suit.</p>	10.3.7
Fencing	The height of the front fence is excessive and causes an adverse sense of separation from the public domain. It is to be lowered in Condition C1 . Side fencing adjoining the Woods Avenue and Wallis Street properties should also be reduced to 1.8m on solar access grounds. See Condition C1 .	10.3.6

PROPERTY DETAILS AND REFERRALS

5. SITE AND LOCALITY





Front Forecourt



Neuweg Synagogue



Entrance from Woods Avenue and Moreton Bay Fig



Rear of Existing Office Building/3 Kilminster Lane



Adjoining to rear yards of Ocean Street properties



Existing playground/location of Southern Sanctuary

Physical features
The site is located on the eastern side of Ocean Street opposite the intersection of John Street and Ocean Street. The site is generally L-shaped, but consists of five separate allotments of land, and as such, exhibits an irregular allotment shape. As well as the main Ocean Street frontage, there are also frontages to Kilminster Lane to the north and Woods Avenue to the east. The overall site area is 3996m ² with a frontage of 24.4m to Ocean Street, 15.2m to Kilminster Lane and 12.54m to Woods Avenue.
Topography
The site is generally flat in nature with a slight slope diagonally across the site from south east to north west of approximately 3.0m.

Existing buildings and structures
<p>Currently existing on the site are two Synagogue buildings – the Neuweg Synagogue (Conservative Synagogue) at the front of the site near Ocean Street and the Temple Emanuel (Progressive Synagogue and function hall) in the centre of the site. The Synagogue site, including all buildings, is listed as a heritage item under Woollahra LEP 2014.</p> <p>An existing child care centre still operates from the existing residential terrace house in the eastern-most allotment of land fronting Woods Avenue. Classrooms are located within the centre of the site alongside the rear boundary with 1-5 Ocean Street. An administrative and educational building is also located to the north of Temple Emanuel.</p> <p>Surface car parking was initially located in front of the Progressive Synagogue with access via Ocean Street providing informal parking for approximately 8-14 cars. It was recently converted to playground area as part of DA413/2012. A Moreton Bay Fig tree at the rear of the site near Woods Avenue is listed as a heritage item.</p>
Surrounding Environment
<p>Adjoining to the south are multi-storey inter-war residential flat buildings with frontages to Ocean Street and Wallis Street. The remainder of the locality is interspersed by a variety of Victorian terrace houses, semi-detached houses and single dwellings on a variety of allotment sizes.</p> <p>A small park named Elms Reserve is located a short distance to the north in Kilminster Lane.</p> <p>There are a large number of heritage items surrounding the subject site – located in Woods Avenue, Waimea Avenue and The Grove.</p>

6. RELEVANT PROPERTY HISTORY

Current use
Jewish Synagogue with non-denominational child care centre (pre-school) and other ancillary buildings.
Relevant Application History
<p>DA355/2009/1 granted approval for the partial demolition of the Synagogue, child care and ancillary buildings and the construction of a new Synagogue, new administration building with underground car parking for 14 (fourteen) vehicles, new ritual baths, new ancillary buildings, new child care centre for 60 (sixty) children, new security ‘blast’ wall along the side boundaries and landscaping works. It was a similar scheme to the subject proposal (less the wall and administration building) and was approved by the Joint Regional Planning Panel – Sydney East Region on 5 May 2010. This consent and the subsequent Section 96 approvals has since lapsed.</p> <p>DA355/2009/2 then granted approval for the staging of the development in four stages on 1 November 2011:</p> <p><u>Stage 1</u></p> <ul style="list-style-type: none">• Relocation of the childcare centre to the Education building <p><u>Stage 2</u></p> <ul style="list-style-type: none">• Demolition of the existing child care centre and construction of the new child care centre, including alterations and additions to the cottage to Woods Avenue• Construction of the new Conservative Synagogue• Construction of the ritual pool within the Progressive Synagogue <p><u>Stage 3</u></p> <ul style="list-style-type: none">• Alterations and additions to the Administration and Education building <p><u>Stage 4</u></p> <ul style="list-style-type: none">• Demolition of the Neuweg building and construction of a new Administration building, including the basement level below• Fencing along the northern boundary <p>DA355/2009/3 was approved on 25 June 2013 and involved various internal and external modifications to the Emanuel Synagogue including modifications to 6 Woods Avenue for use of premises for Mikvah and removal of the driveway off Woods Avenue to be replaced by landscaping and a hardstand space.</p> <p>DA355/2009/4 was approved on 28 February 2013. It involved the modification of Condition C2 to allow Section 94A Contributions only to be paid under Section F (Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)).</p>

DA413/2012/1 was approved on 3 June 2013 by the Development Control Committee. It amends aspects of DA355/2009 as the original approval involved significant alterations and additions to the Education/Renewal building that did not constitute a Section 96 modification application. An Occupation Certificate was issued in January 2015.

The approval involved the following works with respect to Stages 1 and 3 only:

Stage 1

- Demolition of the existing Administrative building (as approved under DA355/2009/1)
- Construction of a new Education/Renewal building adjacent to the existing Progressive Synagogue (larger in size than the approved building in DA355/2009/1)
- Internal fit-out for the temporary relocation of the child care centre from Woods Avenue to the Education/Renewal building
- Use of the courtyard and rear yard as an outdoor play area

Stage 3

- Internal fit-out to alter the building from a child care centre to the Education/Renewal building (as originally approved under DA355/2009/1)

Additional works

- Demolition of the existing building and construction of a new building (not alterations and additions as originally approved)
- A reduction in the northern side setback to 3 Kilminster Lane from 2.6m to 2.0m
- A reduction in the western side setback to Kilminster Lane from 4.8m to 4.5m
- A reduction in the eastern side setback to 14 Waimea Avenue from 12.0m to 10.5m
- An increase in the height of the building from RL 81.8 to RL 82.94
- The addition of a plant room on the roof and a parapet
- A 92m² increase in gross floor area
- The increase in Education/Renewal classrooms from three to five

In addition

- The hours of operation will remain unchanged at 8:30am to 3:30pm
- The number of staff associated with the operation of the centre is 12
- The proposal seeks to relocate the existing 60 children into the new child care centre although it is limited to a maximum of 57 children
- No 0-2 year olds will be accommodated at the centre in accordance with DA355/2009/1

DA413/2012/2 granted approval for the relocation of the temporary child care centre to the existing Education/Renewal building prior to its demolition. Construction of the new building would occur after the relocation of the child care centre back into its approved long term location in Woods Avenue. It also involved the following changes:

- Internal partitioning for classrooms and toilets at ground and first floor level
- Door access to the eastern and western elevations
- Use of the approved temporary outdoor play areas
- Changes to the staging of the development in terms of the timing of the construction of the new Education/Renewal building in Stages 1 and 3

DA413/2012/3 granted approval for the extension of hours of operation from the existing operations (8:30am to 3:30pm for 40 weeks) to allow for expanded before and after hours care, including during school holidays being 7.30am to 6pm for 48 weeks (allowing for school holiday care) but only associated with the temporary relocation and operation of the child care centre.

DA570/2014 was approved by the Development Control Committee on 4 May 2015. It involved the extension in the hours of operation of the existing child care centre to allow for expanded before and after hours care, including during school holidays consistent with DA413/2012/3 for the temporary child care centre.

Relationship of other consents

DA355/2009 lapsed on 5 May 2015 and Council's opinion is that this affects the legality and operation of DA413/2012. However, as an Occupation Certificate has been issued for DA413/2012, the conditions relating to this

consent have been replicated as part of this recommendation in order to ensure consistency and to allow the continued operation of the child care centre. See **Condition J1**. Conditions relating to DA570/2014 have also been consolidated where relevant.

Requests for Additional Information and Replacement Applications

A Stop the Clock letter was sent on 17 June 2015 requesting the following:

1. Legal advice regarding permissibility versus existing use rights
2. Plan of Management/Activities Schedule for the Childcare Centre
3. Clarification regarding the statement about a staged rollout
4. Shadow diagrams for properties in Wallis Street
5. Assessment under SEPP (Infrastructure) – Schedule 3
6. Fully coloured plans

The above information was provided to Council. With the exception of the relocation of the child care centre in **Condition J1**, the application will not be staged. There has not been any replacement application lodged with Council.

7. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	<p>Technical Services provided the following comment:</p> <ul style="list-style-type: none"> Stormwater management is acceptable – See Condition C12 A Construction Management Plan and Work Zone is required – See Conditions C13 and C14 The Woods Avenue crossing is to be removed as it is redundant – See Conditions C1 and C6 The driveway to Ocean Street is to be widened to 6m to assist with traffic movement – See Conditions C1, C6 and C11 Groundwater was not encountered at the level of the basement carpark A substation may be required – See Condition H4 	2
Traffic	<p>The following comment was provided opposing the development on parking and traffic grounds:</p> <p><i>The applicant argues that the proposal maintains the status quo with respect to the parking demands and traffic generation of the facility and therefore does not adversely affect the current traffic conditions.</i></p> <p><i>Whilst this is agreed to, it is poor that the development retains the heavy reliance upon the on street parking conditions around the site to service its needs when the area is already subject to a high level of parking demand. For this reason, Council's Traffic Section does not support the proposed development application.</i></p> <p><u>Planning comment:</u> Despite the conclusion that the Synagogue relies upon and will reinforce the significant parking shortfall in the immediate area, the proposal is acceptable on parking and traffic grounds. See Sections 10.3.18 and 10.3.19.</p>	3
Urban Design	<p>The following comment was provided in support of the proposal from the public domain:</p> <p><i>The redesign allows the public to see the Emanuel Synagogue from Street, which means the building retains its relationship to the public realm and its streetscape significance.</i></p> <p><i>The level of the forecourt has been raised to accommodate covered car parking and provide an amount of physical separation, while still retaining the visual connection to the street. This is a neat and appropriate solution to the street frontage of the proposal.</i></p>	4
Trees and Landscaping	<p>The proposal is generally acceptable with the removal of trees and replacement landscaping on the site being satisfactory. The exception is the works around the heritage listed Moreton Bay fig in the Woods Avenue entrance. Whilst the removal of vehicular access in this area is supported, the play equipment around the tree is</p>	5

Referral	Summary of Referral Response	Annexure
	opposed and is to be setback outside the Tree Protection Zone of the tree. See Condition C1 .	
Heritage	<p>The following comment was provided in support of the proposal in terms of its relationship with the heritage listed Emanuel Synagogue:</p> <p><i>The application is generally acceptable as it complies with most of the relevant statutory and policy documents and would have a satisfactory impact. In order to be acceptable, the application requires minor amendment:</i></p> <ul style="list-style-type: none"> <i>In order to comply with Objective O2 of Clause 2.2.5 of the DCP, retain and reuse the windows from the Bolot-designed Synagogue</i> <i>In order to comply with Control C4 of Clause 2.5.7 of the DCP, the height of all fences must be reduced to a maximum of 1.8m</i> <p>Planners comment: The stain glass windows are nominated as being installed in the western elevation of the southern Sanctuary building in Conditions C1 and B5. The condition requiring a 1.8m high fence has been applied to the front fence on streetscape grounds and to the fences to the Woods Avenue and Wallis Street properties on solar access grounds. The remaining fences are acceptable. See Condition C1.</p>	6
Health	<p>The application is supported, subject to an acoustic fence in Condition C1.</p> <p>Additional measures are noted in Conditions C1, C16-C18 and I1-I5. See Section 10.3.13.</p>	7
Fire Safety	The proposal is acceptable subject to compliance with the BCA in Condition C3 .	8
Community Services	<p>The child care component of the application was considered to be acceptable:</p> <p><i>This application seeks to provide a not for profit service operating a preschool program within long day care hours and times to support the needs of working families. This proposal is supported by the Community Services Department subject to the following with regard to the child care facility:</i></p> <ol style="list-style-type: none"> <i>Full compliance with the Education and Care Services National Regulation 2011.</i> <i>Provision of adequate food preparation area and facilities in accordance with BCA requirements</i> <i>The indoor play area provides craft preparation areas, including sinks, separate from bathroom and kitchen sinks</i> <i>Children's bathrooms are directly or easily accessible from outdoor play areas</i> <i>The outdoor play area is adequately fenced on all sides</i> <i>Compliance with other requirements as outlined in Woollahra DCP 2015 – F1 Child Care Centres</i> <i>For ease of access to bulky equipment store therein, the outdoor play equipment store should be located within easy access to the outdoor play space</i> <p>The operations, management and set up of the Child Care Centre are detailed in Condition I1.</p>	9

ENVIRONMENTAL ASSESSMENT

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 include the following:

- Any planning agreement that has been entered into
- Any draft planning agreement that a developer has offered to enter into
- The regulations
- Any coastal zone management plan

5. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
6. The suitability of the site
7. Any submissions
8. The public interest

These matters are discussed in Sections 8-14.

The remaining considerations do not apply on the basis that the synagogue use is not permissible in the R2 Low Density Residential zone and existing use rights apply to the site and use:

9. The provisions of any environmental planning instrument
10. The provisions of any proposed instrument that is/has been the subject of public consultation
11. The provisions of any development control plan

These matters are nonetheless discussed for comparative purposes in Sections 15-18.

8. ADVERTISING AND NOTIFICATION

8.1. Submissions

The application was advertised and notified from 1 to 15 July 2015 in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015. Submissions were received from:

1. Sinem Mutlu of Le Page Lawyers, on behalf of SP67 at 1 Ocean Street, Woollahra
2. Stephanie Maynes of 1 Ocean Street, Woollahra
3. Sophie Swain of 1 Ocean Street, Woollahra
4. Anthea Sonogo of 2/1 Ocean Street, Woollahra
5. Lucy Whittle of Unit 9/1 Ocean Street, Woollahra
6. Peter Larkin of 11/1 Ocean Street, Woollahra
7. Lindsay and Merryn Coleman of 4 Ocean Street, Woollahra
8. Yvonne Boswell of 4/5 Ocean Street, Woollahra
9. Lisa and Alex Rock of 10 Ocean Street Woollahra
10. Derek and Andrea Davidoff of 14 Ocean Street, Woollahra
11. Steve Herman of 17 Ocean Street, Woollahra
12. Peter Lowe of 3/4 Nelson Street, Woollahra
13. Catriona Hughes of 6 Nelson Street, Woollahra
14. Lindon Morris QC of 25 Nelson Street, Woollahra
15. J Martin of 16/29A Nelson Street, Woollahra
16. John Polines of 10/29C Nelson Street, Woollahra
17. Alexandra Gordon of 32 Nelson Street, Woollahra
18. Linda Wilhelm of 38 Wallis Street, Woollahra
19. Elle Miller of 13/41-45 Wallis Street, Woollahra
20. Mary Ann O'Loughlin of 60 Wallis Street, Woollahra
21. Steve Kemp of 72 Wallis Street, Woollahra
22. James Curtin of 13/98 Wallis Street, Woollahra
23. Adam and Paula McInnes of 75 John Street, Woollahra
24. Richard Saywell of 86 John Street, Woollahra
25. Dr Linda English of 90 John Street, Woollahra
26. Joseph and Jennifer Campbell of 95 John Street Woollahra
27. Sharon and Geoff Aldridge of 99 John Street, Woollahra

28. Craig Malouf of 139 Queen Street, Woollahra
29. Joan Gordon of 154 Queen Street, Woollahra
30. Brian and Barbara Burnett of 159 Queen Street, Woollahra
31. Dan Kelly on behalf of all properties at 10 Woods Avenue, Woollahra
32. SM and TA Littlemore of 5 Kilminster Lane, Woollahra
33. Robert James and Carolyn Lockhart of 23 Forth Street, Woollahra
34. Fiona M. Beevor of 202/152-160 Oxford Street, Woollahra
35. Georgina Hart of 79/8-14 Fullerton Street, Woollahra
36. Sean Kelly of 14 Waimea Avenue, Woollahra
37. Sophie Hogg of Edgecliff Road, Woollahra

The submissions raised the following issues:

8.1.1. Acoustics (congregation, plant and child care)

- Noise transmission including through echo effect from outdoor covered child care play area

Council's Environmental Health Officer has reviewed the acoustic report and the recommendations within it and is satisfied that the proposal will achieve an appropriate acoustic outcome for surrounding residents and that compliance with the requirements in **Conditions C17, C18 and I3** can be achieved.

It also includes a 1.8m high acoustic screen to the boundary of the play area and children limited to two hours of outdoor play at 40 children at a time, as specified in **Conditions C1, F3 and I1**.

Nonetheless, **Condition C1** requires an increase in the internal space of the classrooms to comply with the Regulations and improve access to natural daylight, which will in turn reduce the size of the undercroft space marginally. Furthermore, acoustic treatment is required to the ceiling of the undercroft to minimise any potential echo. See **Condition C1**.

- Increase in ground level of child care centre play area will increase noise

The outdoor play area will be maintained at or very close to existing ground level (RL 74). It is also limited to 40 children at any one time as is the existing and approved arrangement.

- Existing unauthorised acoustic panelling on the boundary fence has had no effect

Any existing acoustic panelling does not form part of any previous development consent and is not subject to certification from a relevant acoustic engineer. As part of this application, the panelling is to be certified to ensure compliance with background noise levels in **Conditions C17, C18 and I3**.

- Loss of privacy from increase of operating hours and children

The operating hours are 7:30am-6pm in accordance with the most recent approval for the child care centre (DA570/2014) and the capacity of the centre is unchanged at 60 children.

- There are no hours of use for the learning centre or measures to address acoustics

The size, location, design and intended use of the learning centre on the first floor to the northern Sanctuary building is such that it does not represent an unreasonable impact on acoustic grounds or require any specific limitations.

- Noise from mechanical plant
- Noise from the plant and bin room

The operation of plant is subject to meeting background noise levels in **Conditions C16, I3 and I4**. Furthermore, **Condition C1** requires an increased setback from the boundary for the plant areas to the western side of the southern Sanctuary building, which will assist in meeting compliance.

- The plant rooms are above the proposed 1.8m acoustic wall

Condition C1 limits the height of the plant rooms to the west of the southern Sanctuary building to 5.5m. Whilst the plant room structure will still be above the height of the acoustic wall, it is being constructed to aid in minimising noise transmission from the child care centre play area and not from the mechanical plant. **Condition C17** requires certification of the mechanical plant and there are on-going maintenance conditions in **Conditions I2-I4**.

- The construction of acoustic barrier needs to be detailed and conditioned to meet assumed acoustic performance to meet required noise levels detailed in this report

See **Condition C1** for construction, **Condition C17** for specifications and **Condition I3** for certification.

- There is no annotations of silencers or acoustic performance to the plant room

The acoustic report nominates details of acoustic treatment for the plant room. This has been noted in **Condition C1** at construction certificate stage with certification in **Conditions I3 and I4**.

- A condition is required for mechanical selection to be made in accordance with the acoustic report and low noise and low vibration units selected as per the assumed equipment in the schedule

The application of a condition specifying the type of mechanical equipment is considered to be too rigid, particularly as **Conditions C16, I3 and I4** specify that appropriate noise levels are to be met.

Section 7.1.3 of the acoustic report specifies that:

Assuming the two plant rooms (AC's and chillers) are fully enclosed with block work or the like the ventilation path air intake and discharge requires to be attenuated with silencers with the following minimum insertion loss attenuation shown in below in Table 17.

This is reiterated in **Conditions C1 and C16**.

- Whilst there is mechanical ventilation, there is no evidence or management plan that the doors and windows will be closed during proceedings. This should be a condition that this is the performance required and also that the stipulated glass is not only achieving acoustic compliance but also Section J compliant. The External Walls to the South and West appear to have no glazing and should meet acoustic and section J performance as required by the report
- Excessive noise from congregations

Whilst it is expected that the development application will bring about additional people, the proposal does not represent an overly significant departure from the existing congregation

attendances. The acoustic report specifies a *‘worst case scenario investigated in this assessment is for a total of 700 people, including a choir and a band, within the place of worship’* and indicates that compliance with the background noise levels will be met. Council’s Environmental Health Officer is satisfied with this outcome.

The acoustic report indicates that *‘This assessment has been made assuming midsize sanctuary’s doors and windows are shut during the proceedings and a 12.38mm laminated glass for the glazed areas of the building envelope.’* As such, **Condition C1** specifies that the doors are to be self-closing (in addition to the glass) and **Condition I5** indicates that they are to remain closed during proceedings, whilst acknowledging that the movement of people through the doors would still be necessary.

- The acoustic report attributes the testing position (R1) to the wrong address. Tests should be carried out to ascertain noise from plant room on 5 Ocean Street
- Acoustic report has not taken into account the closest property

R1 refers to 5 Ocean Street but is noted as being located on the common boundary with 1 Ocean Street. This would appear to be a typographical error and requires rectification in **Condition C1**.

The acoustic report analyses issues of children playing outdoors during certain times of day, vehicle movements associated with operational activities on site, mechanical plant noise and synagogue proceedings. The choice of three unattended noise receivers (R1, R2 and R3) to the west, south and east of the playground area is appropriate as the remainder of the development is internal.

Furthermore, Council’s Environmental Health Officer has reviewed the acoustic report and found it to be satisfactory.

- A condition should be applied to ensure that tradesperson cannot enter, or be near the entrance to the site, prior to 7am

See **Condition E12**.

- The acoustic report and SEE and plans differ with respect to the number of parking spaces

This is not consequential to the conclusions of the development application.

8.1.2. Other amenity impacts

- Loss of privacy and excessive bulk from walkway to 14 Waimea Avenue

The proposal involves an elevated walkway along the boundary with 14 Waimea Avenue. It results in significant overlooking and bulk that should be deleted in **Condition C1**. Council’s Fire Officer has noted that this is unlikely to have any fire egress implications and that at worst; an alternate solution will be required in order to comply with the BCA.

- Loss of privacy from the proposed second storey stairway and art gallery

A staircase leads from the art gallery space at the eastern side of the southern Sanctuary building to the child care playground and access to Woods Avenue. It results in overlooking of the rear yard of 10 Woods Avenue. **Condition C1** therefore requires a roof over the staircase such that sightlines will then be adequately screened by the roof and the boundary fence. See Section 10.3.12 for further details.

The art gallery itself achieves a satisfactory outcome on privacy grounds primarily due to separation distances.

- The main living area of 10 Woods Avenue will face the child care centre

This is noted.

- Loss of light
- Overshadowing

The proposal will result in additional overshadowing from the southern Sanctuary buildings to properties in Wallis Street and Ocean Street. With respect to impacts to 98 and 100 Wallis Street, it is part of the reason for the lowering in the height of the building in **Condition C1**. The remainder of the development is acceptable on overshadowing (direct sunlight) and daylight (indirect sunlight) grounds as it would be anticipated by any development on the site.

- Loss of outlook and view

The proposal does not have an unreasonable outcome with respect to the loss of outlook from surrounding properties. See Section 10.3.8 for further details.

- Loss of ventilation

The development comprises adequate setbacks to ensure that levels of ventilation are maintained.

- Does not accord with the objectives of the WLEP

Subject to **Condition C1**, the proposal achieves an appropriate outcome in terms of maintaining the amenity of surrounding properties.

- Sun reflection and excessive scale from glass wall to 14 Waimea Avenue – the learning centre should be maintained in its existing footprint with no balconies and existing footprint

The materials to the northern Sanctuary building are appropriate, including with respect to sun reflection. **Condition C1** does, however, require an increased setback to the eastern boundary with 14 Waimea Avenue as well as the deletion of the walkway leading from the first floor to the Progressive Synagogue such that the footprint and associated impacts arising from this space are generally compliant with adjoining buildings. This will also eliminate the need for pruning of landscaping.

8.1.3. Traffic and Parking

- Lack of parking and traffic congestion
- Parking is non-existent on Saturdays and High Holy Days
- Reliance upon existing parking shortages to justify a development is short sighted
- It is excessive that one development would absorb 35% of available parking capacity

The proposal will have an impact upon the levels of existing on street parking and will lead to additional traffic movements in the immediate area, particularly and primarily on Saturdays and High Holy Days. Council's Traffic Engineer concluded that the impacts upon parking were

unsatisfactory and recommended refusal of the application on these grounds. However, on balance, the application is considered to be acceptable, as noted in Sections 10.3.18 and 10.3.19.

- Illegal drop off and pick up of children

The drop off and pick up arrangements for the child care centre are unchanged. Nonetheless, **Conditions F2 and I1(i)** reiterate that there is to be no drop off or pick up in Woods Avenue. There is nothing prohibiting a parent or carer from dropping off and picking up in a legally parked location in other streets such as Ocean Street.

- There is no reference to the number of staff
- Parking is only for staff

The basement comprises 14 car spaces, which is approximately the same number of above ground car spaces provided in the forecourt area. It is envisaged that with the expansion of the premises that the basement will be sufficient to accommodate staff during day to day operations of the Synagogue.

Given the size of the congregation, it is not unreasonable that parking will be for staff only.

- The parking report is outdated and the parking situation has worsened since it was undertaken in 2008
- The 400 metre radius of the parking survey is unclear and includes areas that people are unlikely to park
- Council should implement an independent parking report

The Parking report is satisfactory for assessment purposes and no further modifications or reports are considered necessary. Council's Traffic Engineer raised no objection on the information provided.

- The parking survey indicates that 80-90% of worshippers will drive and there is no confidence in promoting alternative modes, particularly as this was promoted in the past and hasn't led to any changes

It is not disputed that habit dictates that most of the congregation are likely to drive to the site. However, with respect to the conclusions reached in Section 10.3.18, the proposal is considered to be acceptable. It includes the submission of a Transport Management Plan to be submitted to Council in **Condition F4** for further assessment. It includes a shuttle bus.

- Construction and ongoing access via Kilminster Lane arising from the demolition of the building to the north of the main Synagogue

Construction access is not proposed or allowed via Kilminster Lane. See **Condition E28**.

- The location of the driveway is amongst the synchronised traffic lights of Ocean Street and Oxford Street
- Safety issues from traffic conflicts

The location of the driveway is not opposed by Council's Traffic Engineer. Rather, its location within the 'No Parking' area assists with traffic movement of vehicles entering and exiting the driveway. It is also viewed as being acceptable on safety grounds.

- Children collection, garbage collection or access should not be via Kilminster Lane

The only access via Kilminster Lane is a small pedestrian gate leading from the northern Sanctuary building. **Conditions I1 and I11** specify that access is not to be obtained via this gate for collection of children or garbage collection respectively. Emergency access is reasonable in this instance.

- The suggestion that a shuttle bus would be implemented is vague and not easily enforced
- All traffic mitigation strategies should be documented and implemented

Conditions F4 and I6 require a Transport Management Plan to be submitted to Council for further assessment, which includes a shuttle bus to be in operation during High Holy Days to assist in movement of congregants. Further details of routes etc will be known at this stage.

8.1.4. Scale and Bulk and Compatibility

- Poor architectural appearance that is inconsistent with the streetscape and conservation area

The contemporary form of the proposed buildings is appropriate and acceptable within the Ocean Street streetscape, the Woollahra heritage conservation area and in the context of surrounding dwelling houses and inter war flat buildings. Subject to **Condition C1** requiring a lowering in building height of the southern Sanctuary building, the proposal also achieves a satisfactory relationship with the Progressive Synagogue. Council's Heritage Officer and Urban Design Officer raise no objection to the development, as noted in Annexure 4 and 6 respectively.

- Excessive number of buildings on the site

There is no particular control limiting the number of buildings on the site. It is noted that the subject site comprises five separate allotments of land with a total of four building and a basement car park. This is not unreasonable.

- Non-compliant height of building works that are inconsistent with height objectives
- Excessive bulk of synagogue building
- Out of character with the low density area

Whilst there is no maximum building height applicable to the site, the height of the southern Sanctuary building is viewed as being excessive on the grounds of heritage and overshadowing. It is required to be lowered in **Condition C1**.

- Inadequate setbacks

The setbacks of the proposed buildings are generally acceptable with the exception of the relationship of the northern Sanctuary building to the eastern boundary with 14 Waimea Avenue and the plant areas to the southern Sanctuary as viewed from the western boundary with 1-5 Ocean Street. Subject to changes to these elements in **Condition C1**, the proposal achieves appropriate and sufficient setbacks from surrounding properties that are mostly in excess of the residential flat buildings that are located on adjoining properties.

- Bulk of metal stacks

The plant rooms to the western side of the southern Sanctuary building are of some concern in terms of the setback to the common boundary to 1-5 Ocean Street. These are required to be lowered in height in accordance with **Condition C1**.

- More appropriate fencing is required to Kilminster Lane to replace the barbed wire and cyclone fencing

Modifications are proposed to the Kilminster Lane frontage. These are generally acceptable, as specified in **Condition C1**.

8.1.5. Trees and Landscaping

- Loss of landscape character through the loss of significant trees, including a Cedar and Cupressus Sempervirens
- Loss of habitat

Council's Trees Officer supports the application subject to the deletion of the playground equipment around the Moreton Bay fig in the Woods Avenue frontage in **Condition C1** in order to protect its health.

8.1.6. Consultation

- Inadequate notification period

The application was notified and advertised in accordance with Chapter A2 of the Woollahra DCP.

- Requires greater consultation (than the A4 plans and limited notification)

Notification included letters being sent to 723 surrounding residents, an advertisement in the Wentworth Courier and a site notice was installed on site. This is appropriate in accordance with Chapter A2 of the Woollahra DCP.

The application was also renotified to advise residents that the application was proceeding to assessment at the Joint Regional Planning Panel.

- Poor notification plans

The plans submitted with the notification letter are noted as being indicative only. Residents are advised to visit Council's website or the Council chambers to view all the documentation.

- Site notice was obscured

A statutory declaration was received noting that the site notice was installed in accordance with the requirements of Chapter A2 of the Woollahra DCP.

- No consultation with residents

Council advises that applicants should liaise with surrounding residents but it is not compulsory.

8.1.7. Other

- Will result in greater security threats

The Emanuel Synagogue will continue to operate on the premises although a higher fence will be constructed to the Ocean Street frontage. The application for the expansion of the site is not viewed as resulting in an increase in security threats to surrounding residents.

- Loss of property values

This is not a relevant planning consideration.

- The use is prohibited and the proposed changes do not meet existing use rights principles

The proposal relies upon existing use rights and the expansion of the premises is permitted under the EP&A Act and EP&A Regulations. See Sections 9.1 and 9.2.

- The child care, art gallery and sanctuary spaces will alter the usage of the site

The above uses are ancillary aspects to the main Synagogue building that do not alter the overall use of the site.

- The art gallery is open to the public and lead to additional congestion

An art gallery is noted on the architectural plans at the rear of the first floor of the main sanctuary building. The area is not explicitly defined as an art gallery under Woollahra LEP 2014 but is viewed as being a flexible open space ancillary to the main sanctuary area. The impacts associated with this space are considered as part of the whole sanctuary and the overall site.

- Child care centre should not be allowed to use Elms Reserve

The proposed Child Care Plan of Management does not propose to utilise Elms Reserve or any other external areas for play or any other activities. To do so would require separate approval from Council.

- Why is the expanded premises and additional uses necessary? Is it not for profit? What is the net income? What is the increased patronage?
- Increased patronage

The proposal involves an increase in the floor area of the site and the proposal is acceptable despite the anticipated impacts arising from this expansion. Beyond this conclusion, the operations of the Synagogue, including finances and the reasons for expansion, are not relevant planning considerations.

- Loss of private open space

Subject to modifications to the plant store on the western boundary at the rear of 1-5 Ocean Street in **Condition C1**, the proposal exhibits adequate setbacks to the side boundaries to properties in Ocean Street such that the development is not imposing when viewed from the private open space of adjoining properties. See Section 10.3.11.

- Construction impacts, including noise, dust and damage

Standard conditions are applied in **Conditions E12, E13 and C2** with respect to noise, dust and damage respectively.

- You cannot compare this application to DA355/2009 as a benchmark

This application is assessed on its own merits and is not compared to the approval for the redevelopment of the site granted in 2009 as circumstances may have changed since that time.

The following submissions were received in support of the application:

38. Tim McCormick of 92 Queen Street, Woollahra
39. Harold Gold of 4/29 Ocean Avenue, Double Bay
40. Sam and Louisa Chipkin of 277 Edgecliff Road, Woollahra
41. Wesley Browne OAM and Sari Browne OAM of 364 Edgecliff Road, Woollahra
42. Liron Beran of 8/366 Edgecliff Road, Woollahra
43. Dr Alan and Diane Skapinker of 7/111 Jersey Road, Woollahra
44. Daniel Grynberg and Teya Dusseldorp of 2 Chester Street, Woollahra
45. Elizabeth and Sheldon Pozniak of 73/8-14 Fullerton Street, Woollahra
46. Andrew Sharpe of 36 Edward Street, Woollahra
47. Don Jewell of 25 Epping Road, Double Bay
48. Ivan and Judy Lorentz of 13/335 New South Head Road, Double Bay
49. Maurice Linker of 27/51 William Street, Double Bay
50. Sam and Judy Weiss of 11 High Street, Edgecliff
51. Ashleigh Antflick of 8 Oswald Street, Darling Point
52. John Roth of 83 Yarranabbe Road, Darling Point
53. Leo Sperling of 161 Paddington Street, Paddington
54. Frederick Weisiriger of 84 Boundary Street, Paddington
55. James Green of 42 Bunyula Road, Bellevue Hill
56. Rami Moryosef of 11 Courtenay Road, Rose Bay
57. Julian Engelman of 19 Hamilton Street, Rose Bay
58. Jim Kornmehl of 2/6 O'Sullivan Road, Rose Bay
59. Rosalyn Baker of 65 Latimer Road, Bellevue Hill
60. Alethea and Eli Gold of 16 Plumer Road, Rose Bay
61. Andrew Silberberg of 5 Burrabirra Avenue, Vacluse
62. Alex Lehrer of 12 Burrabirra Avenue, Vacluse
63. Phillip Wolanski AM of 27A Coolong Road, Vacluse
64. Magdalena Langer of 6 Olola Avenue, Vacluse
65. Rosemary Block of 21 Serpentine Parade, Vacluse

The submissions raised the following issues:

- Will allow for improved security
- Will allow for improved child care facilities
- Will allow for improved landscaping
- Will allow for improved facilities
- Emanuel Synagogue is a major focal point of the community and requires improved facilities
- There is increased demand
- Is a wonderful asset
- Provides a contribution to the local community

- Reduced scale to that of DA355/2009/1
- The development allows for an improved streetscape and heritage appearance to Ocean Street
- No traffic or noise issues arise
- No reduction in parking is proposed
- Is of conservative scale

The above comments are noted.

8.2. Statutory Declaration

The applicant has completed the statutory declaration dated 17 July 2015 declaring that the site notice was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

EXISTING USE RIGHTS

9. SECTIONS 107 AND 108 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND CLAUSES 40-46 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

The subject properties are located in a R2 Low Density Residential zone. Whilst the use of a child care centre in the allotment of land to Woods Avenue is permissible within this zoning, the primary function of the combined allotments is as a place of public worship, which means a *‘building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.’*

The application therefore relies upon the site benefiting from existing use rights regulated under Sections 107 and 108 of the Environmental Planning and Assessment Act 1979 and Clauses 40-46 of the Environmental Planning and Assessment Regulation 2000.

9.1. Clause 107: Continuance of and Limitations on Existing Use

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

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

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

In the assessment of DA355/2009, the applicant provided a statement to Council advising that the use of the premises has been continual since its construction. Council did not dispute this finding. Therefore, it is assumed that existing use rights have not been abandoned. Nothing has changed since 2009 to alter this conclusion.

9.2. Clause 41: Certain Development Allowed

Clause 41(1) of the Environmental Planning and Assessment Regulations 2000 states that:

An existing use may:

- a) be enlarged, expanded or intensified; or*
- b) be altered or extended;*
- c) be rebuilt;*
- d) be changed to another use, including a use that would otherwise be prohibited under the Act*

The changes involve an expansion of the facilities and buildings on the site, which can be facilitated under Clause 41(1)(b) and (c) of the Environmental Planning and Assessment Regulation 2000. The extent of the expansion is considered to be reasonable and within the context of Clause 41(1).

9.3. Clause 108: Regulations Respecting Existing Use

Section 108(3) of the Environmental Planning and Assessment Act 1979 states that the provisions of any environmental planning instrument that derogate (detract) from the existing use rights provisions have no force or effect whilst existing rights remain. Established case law has held that the provisions of environmental planning instruments do not apply to the assessment of applications on sites with existing use rights.

Therefore planning objectives and controls that limit the size of a proposal such as height, setbacks, building footprint, number of storeys, minimum allotment size, minimum site frontage and floor space ratio cannot be applied to the proposal. The Land and Environment Court judgment in the *Stromness P/L v Woollahra Municipal Council* handed down in October 2006 underscores this.

As such, the following environmental assessment of the proposal under the provisions of Section 79C of the Environmental Planning and Assessment Act does not refer to statutory and policy building envelope controls and objectives which derogate from the existing use rights provisions. Nonetheless, assessment against these controls is provided for comparative purposes.

10. EXISTING USE RIGHTS PLANNING PRINCIPLE

The following planning principle (in relation to the environmental assessment of proposals on land with existing use rights) was established in the *Fodor Investments vs Hornsby Shire Council* Land and Environment Court case. These principles are applied to the subject development in light of the Land and Environment Court judgment in the *Stromness P/L vs Woollahra Municipal Council* handed down in October 2006. The consideration of the impact of a proposed development benefiting from existing use rights upon the amenity of the public domain and adjoining properties was central to the judgment.

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

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

Properties to the immediate south and south west (96-100 Wallis Street and 1-5 Ocean Street) are zoned R3 Medium Density Residential and comprise residential flat buildings. The applicable floor space ratio for these sites was originally 0.75:1 in Woollahra LEP 1995 but this has been increased to 1.3:1 in Woollahra LEP 2014, which is now in force. The residential flat buildings have a floor space ratio that is in the vicinity of 1.0:1.

The remaining surrounding properties are zoned R2 Low Density Residential and consist mostly of dwelling houses that are consistent with the scale of terrace development throughout the Woollahra heritage conservation area. Properties to the north in Kilminster Lane and east in Woods Avenue are terrace houses.

The gross floor area of the development in accordance with Woollahra LEP 2014 is approximately 2,460m² or a floor space ratio of 0.6:1. This is immediately comparable or less than the floor area of most terrace houses and significantly less than the floor area of the residential flat buildings to the south.

Additional floor area totals 510m² which is a 26% increase above the existing floor area and additional footprint totals 420m², which is a 28% increase above the existing footprint.

The existing Progressive Synagogue is a two-storey, 11.4m-13.4m high (RL 85.26) structure situated in the centre of the site with a generous setback from Ocean Street of 30m but with a nil setback to the side boundary in the north eastern corner of 5 Ocean Street. Whilst higher than many surrounding residential terrace houses, it is consistent with the predominant height of 96-100 Wallis Street and 1-5 Ocean Street to the south, with RLs of 85.71, 85.48, 89.34, 91.47 and 84.1. It is the also the most prominent building on the subject site.

The other existing buildings on the subject site (child care centre and the Neuweg Synagogue) exhibit minimal setbacks to side boundaries. This is not entirely inconsistent with the Woollahra heritage conservation area. However, the site is unique in terms of its size, frontage, shape and use where there are no applicable side setback controls.

The Sanctuary building to the south is a large scale structure that has a sloping roof and an expansive floor to ceiling height. At a maximum height of 10.8m, it has a height of RL 83.85 (exclusive of the skylights), which exceeds the eaves height of the Progressive Synagogue and presents as three storeys in height. It is replacing an existing smaller single storey classroom building in the south eastern corner of the battle-axe style allotment.

	Existing Classrooms	Proposed Synagogue
Footprint	330m ²	660m ²
Height	4.0m	8.5-10.8m
Southern (side) setback	0.1m	5.2m
Western (side) setback	0.3m-2.6m	2.6-5.6m

The new building to the north of the Progressive Synagogue is being built closer to the three side boundaries and with a bigger building footprint than the existing building and the building which was approved in the same location in DA413/2012.

	Existing Building	Approved (DA413/2012)	Proposed
Footprint	170m ²	215m ²	270m ²
Height	8.9m	9.5m	8.4m-8.6m
Western (side) setback	5.0m	4.7m	2.8m
Northern (side) setback	2.9m	2.1m	2.0m

Eastern (side) setback	13.2m	10.8m	6.0m
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The proposal is relatively consistent with what is permissible on surrounding sites. It generally matches the scale of residential dwellings to the north and west and is less than the scale of three, four and five storey residential flat building developments to the south and south west. It has a maximum height of RL 82, and is viewed as subordinate to the existing Progressive Synagogue (RL 82.95).

Concerns are raised in relation to certain aspects of the development as follows:

- The height of the southern Sanctuary building and its relationship to the Progressive Synagogue
- The height of the store and plant rooms to the west of the Sanctuary building
- The relationship that the Sanctuary building to the north of the existing Progressive Synagogue has with the adjoining properties to the north in Kilminster Lane and east in Waimea Avenue as well as the undesirable extent of pruning to Trees 24-28 along the boundary with 14 Waimea Avenue as a result

These aspects are to be modified in **Condition C1** as follows:

- The height of the Sanctuary building to the south of the Temple Emanuel is to be lowered by a minimum of 1.5m to a maximum RL 80.85 at its southern end and RL 82.35 at its northern end
- The setback of the Sanctuary building to the north of the Temple Emanuel from the eastern boundary with 14 Waimea Avenue is to be increased to a minimum of 9.0m on both levels
- The plant rooms to the west of the Sanctuary building to the south of the Temple Emanuel are to be limited to a maximum height of 5.5m (RL 78.4)

Subject to the above changes, the proposal allows an increase in the size of the development and is done so in the context of the scale of surrounding development and the amenity of surrounding residents.

10.2. What is the relevance of the building in which the existing use takes place?

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

The following observations are provided:

- The proposal involves the demolition of the Neuweg Synagogue to Ocean Street with no proposed building in its place
- The building to the north of the existing Progressive Synagogue is an enlargement of almost 60% from the existing building. Subject to a more appropriate and consistent setback to the eastern boundary in **Condition C1**, it would achieve an appropriate context in bulk and form
- Subject to a reduction in building height in **Condition C1**, the proposed Sanctuary to the south of the existing Progressive Synagogue is viewed as a satisfactory in context of the amenity of surrounding properties and its relationship with the existing Progressive Synagogue.

10.3. What are the impacts on adjoining land?

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

10.3.1. Demolition of a Heritage Item

The Neuweg Synagogue was constructed in 1966. It is noted as ‘*designed by Aaron Bolot, who was a member of the Emanuel Synagogue congregation, is of cultural significance as an accomplished example of his work*’.

Its demolition was supported by Council’s Heritage Officer and approved as part of DA355/2009/1 in May 2010. At the time, it was listed as a contributory building only and the remainder of the site, primarily the Progressive Synagogue or Temple Emanuel, was subject to potential heritage listing.

The proposal again involves the demolition of the Neuweg Synagogue. However, the building now forms part of the overall heritage listing of the site which reads as ‘*the Synagogue complex of buildings, interiors and grounds (including Moreton Bay fig)*.’

In effect, the application now involves the demolition of a heritage item. However, it is worth noting the report to the Urban Planning Committee on 16 May 2011 which was subsequently adopted within Woollahra LEP 1995 (Amendment 66) and read as follows (emphasis added):

*In general, we agree with many of the points raised in the submission. Accordingly, the heritage inventory sheets have been amended to accommodate suggestions contained in the submission. **The sheets have also been amended to include notations about the work approved by DA 355/2009.***

*In regard to comments about the significance of the Neuweg Synagogue, **we consider the building may not be an exceptional design when compared with other buildings designed by Aaron Bolot.** However, the building forms part of the complex of buildings and spaces on the site. It contributes to the history of the site and it is appropriate to say the building is an example of the work of Aaron Bolot.*

*As to whether it is “an accomplished” work is a matter of opinion and interpretation. We consider the Neuweg Synagogue is an accomplished work not so much in the meaning of a building of exceptional design merit when compared with other buildings designed by Bolot, but in the sense of the way in which it respectfully relates to Lipson’s synagogue and addresses the forecourt and street. We therefore consider references to the Neuweg Synagogue as exhibited should be retained, **although notations about the works approved by DA 355/2009, which include consent to demolish the building, have been added to relevant sections of the heritage inventory sheets.***

Because the works have not been carried out this provides a transitional approach to the listing process. The revised heritage inventory sheets with highlighted changes are provided in annexure 11.

Conclusion

The submission makes many relevant comments about the description of the item and the content of the heritage inventory sheets.

*In response to these comments, we agree that the item's description should be slightly changed and certain amendments to the sheets should be made. **It is reasonable to also amend the inventory sheets to acknowledge the approval to DA 355/2009**, which if activated will lead to a range of physical changes to the buildings on the site.*

The same conclusions can be drawn with respect to the demolition of the existing office wing to the north of the Temple Emanuel although this building exhibits less significance.

Council's Heritage Officer does not oppose the demolition of the Neuweg Synagogue or the office wing. With respect to the dispensation provided in the heritage listing notations and as approval has already been granted for its demolition, no particular objection is raised. Of particular significance, the demolition of the Synagogue allows for the opening up of sightlines of the main Temple Emanuel building when viewed from Ocean Street and this is a positive outcome. Retention of the stain glass windows is also specified in **Conditions B5 and C1**.

10.3.2. Visibility of the Progressive Synagogue in the Streetscape

The demolition of the existing single storey Neuweg Synagogue fronting Ocean Street and its replacement with an open forecourt that grades up from the street (set behind an open style front fence and amongst landscaping) allows for the expansion of the existing vista to the front façade of the heritage listed Temple Emanuel. This is a positive outcome.

10.3.3. Heritage Significance of 6 Woods Avenue

6 Woods Avenue houses the administration component of the child care centre and some classrooms. The proposal does not seek to make any building modifications to this element but remains silent on any use. **Condition I1** limits its use to office or similar less intensive uses only.

10.3.4. Relationship within the Heritage Conservation Area

The Progressive Synagogue remains the primary building when viewed from the street with the forecourt in front of the building and the demolition of the Neuweg Synagogue adding to its significance.

The two Sanctuary buildings are setback from Ocean Street by in excess of 40m. The northern Sanctuary building will be detached from the Progressive Synagogue whereas the existing building is not and this represents a positive outcome. Furthermore, the southern Sanctuary building will not be visible from Ocean Street.

In the context of secondary streetscape views (Kilminster Lane and Woods Avenue), the proposed Sanctuary buildings achieve a satisfactory response.

When viewed from surrounding properties, the proposal achieves an acceptable relationship with surrounding contributory and heritage listed items. The architectural form of the buildings are appropriate as discussed elsewhere in the report and **Condition C1** requires modifications to the scheme in order to achieves a sympathetic relationship to the adjoining property including with respect to setbacks.

10.3.5. Front Fence

DA355/2009 comprised a security wall of 0.5m wide, 2.6m-3.2m high along the Ocean Street frontage, extending along the northern side boundary up to and including the Kilminster Lane frontage and along the southern side boundary alongside 5 Ocean Avenue. It met with significant community concern and was deleted in the approval.



The subject application involves a landscaped planter to the street with a 2.4m-4.0m high vertical metal fence.

The style of fence allows for a large degree of visibility to the forecourt and the façade of the Progressive Synagogue. However, it is still up to 2.5m higher than is permitted in the Woollahra heritage conservation area and is also significantly higher than all other fencing along the eastern side of Ocean Street. It is considered to be out of character in the streetscape and results in an excessive impression of segregation. It is

required to be lowered to a maximum height of 1.8m at any point. See **Condition C1**.

10.3.6. Side Fences

Fencing around the property consists of new 2.1m-2.5m high fencing to the common boundaries with the Woods Avenue, Wallis Street and Kilminster Lane properties with 2.4m high fencing along the southern side of the forecourt and 2.7m high fencing along the northern side of the forecourt.

The side fences are largely acceptable in terms of the relationship with surrounding properties. It generally ensures a degree of privacy between properties without being excessive in height. However, the fences to the Woods Avenue and Wallis Street properties have the potential to result in unnecessary overshadowing and dominance and should be limited to 1.8m. See Condition C1

Furthermore, in order to enable increased sightlines from the street and to minimise the dominance of the fencing to the streetscape in Ocean Street and adjoining properties, the northern and southern side fences as measured 10m from the front boundary are to be limited to a height of 1.8m and made open in style consistent with the front fencing along the front boundary of the forecourt (see **Condition C1**).

Child care fencing around the play area is also appropriate.

An objection was received in relation to the poor appearance of the existing chain wire cyclone and barbed wire fencing to the Kilminster Lane frontage. This concern is shared and the fencing must be removed in **Condition C1**. The same condition was applied in DA413/2012 but this did not occur despite the issue of an Occupation Certificate.

Condition C11 also requires the establishment of splays at the driveway, which can be achieved with the above changes.

10.3.7. Landscape Character

A Moreton Bay Fig at the rear of the site is listed as a heritage item in Schedule 3 of Woollahra LEP 1995. Located at the base of the tree is a timber play area that Council's Trees Officer opposes. Subject to this element being relocated outside of the Tree Protection Zone (see **Conditions B6 and C1**), the proposal achieves an appropriate landscape outcome.

The Tree Removal and Retention Plan also indicate that pruning is proposed to the Moreton Bay Fig and Trees 24-28 (Robinia) along the boundary with 14 Waimea Avenue. The pruning to the Moreton Bay Fig appears unnecessary within the scope of the works proposed within the development application. Furthermore, the pruning to Trees 24-28 is a poor net landscape outcome when considering that the setback of the building to the eastern boundary is unacceptable. As such, **Conditions A4 and C1** prohibit pruning to these trees.

Whilst the proposal involves the removal of several trees, the landscape plan results in an improvement in the landscape character of the site through the provision of additional areas of private open space, paving, new tree plantings and the removal of parked vehicles within the forecourt in front of the Temple Emanuel.

10.3.8. Loss of Views/Outlook

The buildings are set within the context of the existing Progressive Synagogue on the site. There are no particular views of note from surrounding properties but rather a leafy outlook. Any possible wider sightlines would be interrupted by the scale of the existing Temple Emanuel or the terrace house at 11 Ocean Street.

The impact relates to the loss of sightlines from surrounding properties of vegetation in the immediate area. Subject to appropriate setbacks and the elimination of additional pruning (thereby improving the landscape character of the site) in **Condition C1**, no objection is raised and no Tenacity assessment is considered necessary.

10.3.9. Height, Bulk and Scale

A maximum building height of 9.5m would ordinarily apply to the site and the proposal involves the following maximum heights:

- 8.5m-10.8m to the Sanctuary building to the south of the existing Progressive Synagogue
- 8.6m for the Sanctuary building to the north of the existing Progressive Synagogue
- 4.8m for ancillary items within the forecourt

The surrounding properties comprise a variety of three, four and five storey residential flat buildings in Ocean Street and Wallis Street although these properties have a maximum applicable building height of 13.5m under Woollahra LEP 2014. The remaining dwelling houses to the north and east are large scale terrace houses (Ocean Street) and single storey cottages (Woods Avenue) within a maximum height of 9.5m.

The height of the proposed Sanctuary building to the north of the Progressive Synagogue is considered to be consistent with or less than the predominant form of development in the surrounding streetscape. The Sanctuary to the south is comparable in height with the adjoining residential flat buildings but should realistically be lower in height when noting the lower height control applicable to the subject site. It does not achieve a satisfactory relationship with the existing

Progressive Synagogue and results in overshadowing to the properties to the south. It is required to be lowered by 1.5m in **Condition C1**.

The resulting scale and bulk is considered to be acceptable primarily on the basis that it is surrounded by buildings of a similar scale. The total footprint is 47% or 1880m², which is comparable with all other surrounding residential flat buildings:

- 5 Ocean Street: 43%
- 3 Ocean Street: 43%
- 1 Ocean Street: 53%
- 96 Wallis Street: 47%
- 98 Wallis Street: 38%
- 100 Wallis Street: 51%

The exception is the Sanctuary building to the north of the Progressive Synagogue, which has an inconsistent rear setback to the eastern boundary. Subject to changes to this building and to the southern Sanctuary building in **Condition C1**, the proposal will ensure that the existing Progressive Synagogue remains the focal building on the site.

10.3.10. Articulation

Both of the new Sanctuary buildings comprise a block form and flat roof design. Whilst there is limited articulation to the elevations of both buildings, they comprise adequate setbacks to the boundary and **Condition C1** requires the reuse of all of the stain glass windows from the Neuweg Synagogue, which will aid in improving articulation and architectural interest. The proposal is acceptable on this basis.

10.3.11. Setbacks and Sense of Enclosure to Adjoining Properties

The development achieves the following setbacks:

Southern Sanctuary building

- 2.7m-5.8m to the western boundary
- 5.5m to the southern boundary
- 8.2m to the eastern boundary
- Nil setback associated with the linking structure between the Progressive Synagogue and the southern Sanctuary building

Of the above, there is sufficient separation towards the east (despite **Condition C1** requiring the relocation of the wall 2.0m towards the east) and south although there are issues of overshadowing and dominance arising from the height of the development that are addressed elsewhere in the report and rectified in **Condition C1**.

The setback to the western boundary is of greater concern. The plant areas extend to two storeys in height and are unreasonable. They are to be lowered to 5.5m in height in **Condition C1**.

The main access from Ocean Street to the southern Sanctuary building will be via the main entry of the existing Progressive Synagogue via a foyer area and staircase to the south of the Progressive Synagogue. It will involve the retention of the existing 4.4m high wall (to RL 78.255) of the existing child care centre building. In this regard, it is acceptable.

Northern Sanctuary building

- 3.0m to the western boundary
- 2.0m to the northern boundary
- 5.0m to the eastern boundary
- A walkway linking the building and the Progressive Synagogue has a nil setback to two separate boundaries to 14 Waimea Avenue

The setback to the northern boundary is appropriate as it adjoins the nil setback of the adjacent building of 3 Kilminster Lane. Additionally, the setback to the western boundary is sufficient due to its frontage to Kilminster Lane with 9.0m separation afforded to the rear boundary with 11 Ocean Street.

However, the setback to the eastern boundary is unreasonable due to the lack of consistency with 3 Kilminster Lane, a degree of overlooking and the extent of pruning that is required to the canopy of the trees as a result. The setback is required to be increased by 4.0m to 9.0m from the eastern boundary in order to remain consistent with this property, to minimise bulk issues as viewed from 3 Kilminster Lane and 14 Waimea Avenue and retain the existing landscape coverage along the boundary. Furthermore, the walkway is to be deleted in its entirety due to bulk and privacy grounds. See **Condition C1**.

- Forecourt

A lightweight shade structure will be built to the northern side of the forecourt and the driveway in the vicinity of 11 Ocean Street and Kilminster Lane. It is not unreasonable on bulk and scale grounds. However, as noted below, there are some issues with overlooking from the deck area at the eastern end of the forecourt, as discussed in Section 10.3.12 and modified in **Condition C1**, which requires a 1.5m setback with a 1.5m high privacy screen as noted below.

Excavation for the basement is generally 1.8m-2.0m from the respective side boundaries and is acceptable.

10.3.12. Visual Privacy

The following observations are provided in relation to visual privacy

Forecourt

- The changes to the forecourt involve an increase in the height of ground level from RL72.4-72.9 to a maximum of 73.94 at the entrance to the existing Progressive Synagogue. It is acceptable on overlooking grounds
- The raised deck area will be built to RL73.94 with the fencing along the northern boundary to 11 Ocean Street being constructed to a height of RL 74.84. This is an equivalent height above ground level of 0.3m-0.9m. **Condition C1** therefore required that the deck be setback from the boundary 1.5m from the boundary and a 1.5m screen to be installed along the northern side. This will necessitate the reconfiguration of the staircase leading from the basement but this can be achieved within the constraints of AS2890.1

Northern Sanctuary building

- The ground floor of the building will open onto the courtyard to the north whereby the existing vegetation and boundary fencing along the northern and eastern boundaries will allow for a sufficient level of privacy
- The development adjoins a dwelling to the north and Kilminster Lane to the west with existing levels of privacy at ground level retained as a result
- There is 5.0m separation to 14 Waimea Avenue to the east and 9.0m separation to 11 Ocean Street to the west, as measured to the first floor. The building comprises screens to the eastern and western elevations and when coupled with the separation distances and/or existing vegetation, there is no unreasonable level of overlooking
- The sole window to the northern elevation of the first floor has an outlook onto the wall of 3 Kilminster Lane. This is an acceptable solution
- A walkway leading from the eastern side of the first floor to the mezzanine level of the Progressive Synagogue has unreasonable levels of overlooking to 14 Waimea Avenue primarily because of its elevated nature and nil setback. It is deleted in **Condition C1**. Council's Fire Officer has noted that this is unlikely to have any fire egress implications and that at worst; an alternate solution will be required in order to comply with the BCA.

Southern Sanctuary building

- The child care centre is located at existing ground level and the play area is located in a similar location to existing. With respect to fencing around the perimeter of the play area to 2.1m in height, the proposal maintains an adequate degree of visual privacy
- There are no windows to the southern elevation of the Sanctuary building
- There is a screen proposed to the western elevation of the Sanctuary building. However, the most appropriate location for the stain glassed windows is along the eastern elevation of the Sanctuary building. In doing so, it will ensure the adequate retention of visual privacy. Any remaining windows are to comprise obscure glazing in **Condition C1**
- A staircase leading from the art gallery forecourt allows for overlooking to the yard of 10 Woods Avenue. As such, a roof is to be constructed over the staircase. With the aid of the boundary fencing, the roof will eliminate sightlines to the yard – see **Condition C1**
- Access is proposed between the mezzanine at the front of the first floor of the Progressive Synagogue and the art gallery forecourt. It will have a nil setback to the boundary with 5 Ocean Street and relies upon the boundary wall of the existing child care centre. However, at a height of no more than 1.0m, this does little to assist in privacy. As such, **Condition C1** requires the space to be setback 1.2m from the boundary and to comprise screening to 1.5m. The resulting width of the accessway is 1.6m and as it is not proposed for disabled access, there are no access implications as a result of this modification

The remainder of the development has no measurable additional impact upon visual privacy or is remaining unchanged. For instance, access along Woods Avenue will remain operational for child care centre access and the provision of boundary fencing along the northern boundary will eliminate sightlines across this boundary.

10.3.13. Acoustic Privacy

The acoustic report makes recommendations and findings with respect to:

- Children playing outdoors during certain times of day
- Vehicle movements associated with operational activities on site

- Mechanical plant noise
- Synagogue proceedings

It also concludes the following:

The establishment of the current noise criteria was based on WGE noise survey which monitored ambient and background noise levels using both hand held sound level meters and a long-term noise logger near the boundary of the potentially most-affected receivers.

In implementing the noise mitigation measures presented in this report during the design stages of the project no adverse noise impact associated with additional traffic, mechanical plant operation and the Synagogue operation is expected. The predicted noise levels presented in this document demonstrates that the Council's DCP noise criteria will be met by the proposed outdoor playground area at the lower levels of the most affected residential receivers.

The environmental noise intrusion criteria for the operation of the proposed development have been established based on Council requirements and state policy guidelines.

The following specific findings are provided:

- The proposal meets Leq,15min 53 dB(A) as measured to all properties for 40 children playing for a maximum of two hours per day with 1.8m acoustic screening to the perimeter of the play area
- The proposal meets Leq,15min 46 dB(A) as measured to all properties for 700 people with a choir and band within the southern Sanctuary building only when the doors and windows are shut during the proceedings
- By virtue of an unchanged arrangement for pick up and drop off of children and the capacity and hours of operation of the child care centre, implications of noise from traffic generation for the child care centre are unchanged
- The likely increase in noise transmission from 72 additional vehicle movements associated with the remainder of the development (0.5 dB) easily complies with the relevant standard (2 dB)
- With the mechanical equipment running from 8am to 10pm, it meets the evening time 41 dB(A) requirement as measured to all properties

Council's Health Officer has undertaken an assessment of the Acoustic report submitted with the development application and considered the likely noise levels to be satisfactory. However, the recommendations of the acoustic report include the following:

- Existing restraints relating to child care play times and hours are maintained from the previous approval. This includes but is not limited to no outdoor play prior to 8:30am or after 3:30pm
- Limiting the number of children playing outdoors at any one time to 40
- A 1.8m high acoustic fence is required around the perimeter of the play area
- The synagogue is to have 12.38mm laminated glass
- The plant room is to be acoustically treated within its interior

In addition to the above, **Conditions C1, I4 and I5** also specifies the following additional measures to provide additional acoustic measures when considering the large numbers of surrounding residents:

- The southern Sanctuary doors and windows are shut during the proceedings
- The plant area to the west of the southern Sanctuary building is to be limited to single storey or 5.5m in height
- Mechanical equipment is not to run between the hours of 6am to 12 midnight
- Acoustic treatment is required to the ceiling of the undercroft play area
- The stain glass windows, as conditioned to be installed in the western elevation of the southern Synagogue building (in **Condition C1**), are to be measured acoustically to comply with the relevant 46 dB(A) requirement. It is assumed that compliance will be achieved as the findings to 5 Ocean Street (R1 receiver) are the lowest of all the measures
- The undercroft to the child care centre play area is to be acoustically treated with the same material as the side fencing

Comment from Council's Environmental Health officer found the proposal to be satisfactory, as outlined in Annexure 7.

Other primary areas of concern are as follows:

- General congregations of people, including those on the footpath on Ocean Street

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

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

- Noise from the forecourt areas

The new main forecourt area will be located between the Progressive Synagogue and Ocean Street. People are likely to congregate in this area prior to entering the main foyer of Temple Emanuel. It was previously used for parking of vehicles prior to its conversion to a temporary outdoor play area associated with DA413/2012. This is an acceptable outcome.

Proposed forecourts between the northern Sanctuary building and the Progressive Synagogue and the southern Sanctuary building are of limited area and enclosed by building form on two of the four elevations such that the level of noise transmission is not unreasonable.

- Overall development

Objectors have raised concern in relation to the unreasonable impacts arising from the operation of the existing Synagogue. However, Council is unable to impose a limit on the number of people attending a religious facility such as the Emanuel Synagogue. There has been one noise complaint in the past ten years in Council's CRM system (record of complaints from residents) in May 2012 citing the following:

Noise Complaint ongoing issue - children screaming and bongo drums from the Temple Emanuel every Saturday night.

The response from Council's Environmental Health Officer was to advise the Synagogue and to take no further action at the time, subject to any further relevant reviews:

Correspondence sent to Temple Emanuel re noise caused by screaming children and bongo drums on Saturday nights, no further action required at this time.

The number of people on the site at any one time fluctuates substantially during a specific day and across the course of a whole week. There are a minimal number of people on the site during a normal weekday period (and fewer still during school holidays) whilst it is possible that in excess of 1000 people could be on site during a High Holy Day. However, this occurrence is limited to a maximum of four days a year.

In general, the level of use of the Synagogue is relatively low and concentrated to the use of the child care centre during weekdays and the use of the Synagogues on Fridays and Saturdays. This is not dissimilar to other religious congregations in the Woollahra municipality, with services being held on Saturdays and Sundays.

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

10.3.14. Solar Access

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

The submitted shadow diagrams indicated that there will be some additional overshadowing as a result of the proposed redevelopment. In noting whether it is considered acceptable, it is worth considering the following planning principle in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082:

1. *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong*

The site adjoins R3 Medium Density Residential to the south. The southern end of the site adjacent to the Wallis Street and Ocean Street properties and where the southern Sanctuary building will be constructed is largely vacant. Some overshadowing will be inevitable and unavoidable.

2. *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained*

As a proportion of the total sunlight available to properties in Wallis Street, the extent of sunlight lost is not substantial, limited to ground floor units only. Assessment is outlined below.

3. *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours*

The Sanctuary to the south of the Progressive Synagogue comprises a roof that slopes downwards towards the southern boundary. This is a positive aspect. However, it also comprises substantial ceiling heights upwards of 7.0m that could be modified to reduce the solar access impact on adjoining properties without significantly comprising the internal spaces of the Sanctuary building.

4. *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate*

The private open space of properties to the south are largely common areas that are unusable.

5. *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence*

There is existing overshadowing from fencing and dense coverage of vegetation that has some additional impact. This is the basis behind lowering the fencing to Wallis Street and Woods Avenue properties to 1.8m in **Condition C1**. There is also existing overshadowing from the existing wall to 5 Ocean Street that is proposed to be retained.

6. *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The buildings to the south are considered to be developed to close to their maximum potential in terms of height and floor space ratio whereas the subject site is under developed with no substantial buildings located on the south western end of the subject site.



Rear of 100 Wallis Street



Rear of 98 Wallis Street

The proposal will result in the following impacts to existing solar access to all of the adjoining properties:

- 5 Ocean Street: The space at the rear of the premises comprises a grassed communal area. There is no appreciable change to north facing windows or private open space
- 3 Ocean Street: The space at the rear of the premises comprises a grassed communal area. There is no change to north facing windows but additional shadowing of the rear common open space during the morning period. However, it is envisaged that the proposal will maintain about two hours of sunlight to at least 50% of this area between the hours of 11am and 1:30pm on June 21
- 1 Ocean Street: The space at the rear of the premises comprises a concrete area with minor setbacks and a clothes line. It could not be considered as usable communal open space. There is no change to north facing windows or private open space
- 96 Wallis Street: The rear and sides of the common property comprises parking and driveway area. Additional overshadowing will fall across the common parking area and will not impact upon private open space or north facing windows
- 98 Wallis Street: The rear of the property comprises a communal clothes line and common space although it is underutilised and would not ordinarily be used as communal open space. There is also private balcony space and a north facing bedroom window to ground floor of the north western side of the building.

Additional overshadowing will fall across the northern elevation bedroom window and the private balcony throughout the day. As such, it is necessary to impose **Condition C1** which requires a lowering of the building. Whilst it may not achieve full compliance, it will increase the amount of sunlight to the windows and balcony of the ground floor unit such that it is viewed as being an appropriate amenity outcome when considering the location and outlook of the said unit.

- 100 Wallis Street: The rear of the property is not overly usable. It comprises an area for accommodating bin storage and has a minimal rear setback.

Additional overshadowing will fall across the northern elevation and the open space area from about 12 midday onwards. Existing shadowing is caused by heavy vegetation in the immediate area and with a negligible setback of 5.0m to the common boundary, there is limited open space at the rear of the property and a high susceptibility to overshadowing.

Whilst the impact to the open space is considered to be acceptable given it is underutilised and not readily accessible for common use, **Condition C1** requires a lowering of the building to maintain three hours of sunlight to the north facing bedroom and living/dining room windows to the unit to the north western corner of the ground floor

- 102 and 104 Wallis Street: There is a marginal amount of additional overshadowing of the rear yards of both properties in the late afternoon (after 2:30pm). It will not affect the minimum hours of sunlight that are ordinarily required
- 1-5 Woods Avenue: Additional overshadowing in the later afternoon will affect the rear yards of each of the properties to varying degrees. However, it will not affect the minimum hours of sunlight that are ordinarily required for private open space

10.3.15. Groundwater

The Geological and Hydrogeological report submitted with the development application noted the following on page 3:

Seepage was not observed during augering of BH1, BH2 or BH4, however, seepage was observed during augering of BH5 at a depth of 3.2 m (RL 69.4 m). Groundwater was measured within the monitoring wells on 5 February 2009 at depths of 2.1 m (RL 71.9) in BH2 and 3.9 m (RL 68.7 m) in BH5. Groundwater levels will fluctuate and may temporarily rise by at least 1 m following periods of prolonged or heavy rainfall. Further monitoring of groundwater levels should be carried out to assess likely fluctuations.

The basement will be constructed within the area of BH4 and BH5. It extends to a depth of RL 70.4 or 2.5m below existing ground level and on this basis, there is a negligible chance that groundwater may be encountered even when accounting for the fluctuations noted above.

Any potential groundwater is very minor and will be resolved in the construction phase and as per **Condition C10**.

10.3.16. Stormwater

With the conditioned northern Sanctuary building replacing a building of a similar footprint, the basement being located within the existing forecourt to Ocean Street, the southern Sanctuary building being sited on existing hard paved surfaces and additional soft landscaping for the child care play area, there is likely to be a net increase in soft landscaping and an improvement in stormwater infiltration on the site. The stormwater disposal plan is also satisfactory from the perspective of Council's Development Engineer, subject to additional works within **Condition C12**.

10.3.17. Excavation

The proposal involves the following groundworks on the subject site:

- Excavation totalling approximately 655m² in area and 1600m³ with an average depth of 2.5m for the basement level car park
- Excavation for two rainwater tanks
- Incidental groundworks associated with the construction of fencing, foundations and paving

Whilst a total volume of excavation in excess of 1600m³ in volume is substantial, it is generally acceptable given the extensive size of the site, the depth of excavation being relatively shallow and its siting away from property boundaries.

Council's Development Engineer has assessed the geotechnical/hydrogeological reports submitted with the development application and considers the extent of excavation to be satisfactory, subject to conditions requiring compliance with recommendations of the geotechnical/hydrogeological report, the preparation of dilapidation reports in relation to adjoining development, support for adjoining land and buildings and vibration monitoring programs. See **Conditions C10, D2 and E6-E8**.

With the subject site surrounded by seven residential flat buildings and truck movements considered to be considerable, a Construction Management Plan is required in **Condition C13**.

There are a variety of heritage items in the immediate vicinity of and within the subject site. Extensive precautions are outlined in the conditions in order to ensure that the heritage significance of the various items is not compromised. In particular, the play equipment in the immediate vicinity of Moreton Bay Fig adjacent to the Woods Avenue entrance is to be setback from the base of the tree (**Conditions B4 and C1**). Additionally, however, the proposal involves the removal of vehicular access alongside this tree, which is a major improvement from the existing situation (**Condition C1**).

10.3.18. Parking

The intensification/capacity of the site can be summarised as follows:

- The child care centre is remaining unaltered at 60 places
- The Progressive Synagogue is remaining unaltered at 360 congregants
- The new southern Sanctuary has capacity for 300+ congregants
- The new northern Sanctuary has less than 50 congregants on the ground floor along with office space that is relatively similar in size to the existing building and the learning centre on the first floor, which allows a flexible open floor area of 175m²
- Other external forecourt areas associated with the above areas

Parking previously consisted of 8 formal or 14 informal surface parking spaces in the forecourt area to Ocean Street. This has temporarily been converted to a fenced outdoor play area as part of DA413/2012. The proposal involves a basement car park for 14 vehicles and about six bicycle spaces. The amount of parking spaces are relevant for the day to day operations of the Synagogue but largely inconsequential on service days or High Holy Days (given the number of congregants).

At present, the Synagogue operates from an external site on High Holy Days as the existing buildings on the site are unable to accommodate the congregation. The proposal will consolidate the operation of the Synagogue within the one allotment by constructing a new Sanctuary or Synagogue building. The number of congregants on High Holy Days across both existing sites and with the proposed consolidation onto the subject site could be viewed as being similar but could also increase.

Broken down into their respective uses, the proposal is acceptable for the following reasons:

- Ancillary office space

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

- Child care centre

As the capacity of the child care centre is remaining unchanged, there is no additional demand for off-street car parking.

- Neuweg Synagogue

The Neuweg Synagogue has a capacity of about 90-100 congregants and it is proposed to be demolished.

- Progressive Synagogue

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

- Northern Sanctuary

The capacity of the ground floor of the Northern Sanctuary is increasing by less than 50 persons. This increase is considered acceptable on the basis that this space will mostly be used on an intermittent basis or at times when services are not being undertaken in the two larger Synagogues (Progressive Synagogue and the southern Sanctuary).

- The Learning Centre in the Northern Sanctuary

The Learning Centre is an open plan room measuring 180m². It represents an increase in patronage.

- Southern Synagogue

Parking within the basement level will not be used by congregants of the Synagogue, as the number of spaces is limited to 14. These will almost be entirely used by staff or for disabled access.

With respect to the above, the proposal represents an increase in parking generation via the two Sanctuary buildings less the demolished Neuweg Synagogue. As such, the acceptability of the proposal hinges upon the impact that the expansion of the Synagogue and the Learning Centre by more than 300 congregants has upon the availability of parking on the local street network.

Council's Traffic Engineer opposes the development on these grounds, citing the following observations:

The applicant argues that the proposal maintains the status quo with respect to the parking demands and traffic generation of the facility and therefore does not adversely affect the current traffic conditions.

Whilst this is agreed to, it is poor that the development retains the heavy reliance upon the on street parking conditions around the site to service its needs when the area is already subject to a high level of parking demand. For this reason, Council's Traffic Section does not support the proposed development application.

However, when considered cumulatively and in terms of the public interest, it is considered to be acceptable for the following reasons:

- The Synagogue currently operates with a significant shortfall in parking. This is typical of most religious institutions, particularly in the Woollahra municipality where on-site parking is not feasible or practical
- The Synagogue operates on Friday evenings and Saturday mornings, which is typical of most religious institutions that operate on weekends. Accordingly, the extent of the shortfall is limited to one or two services/days a week
- The High Holy days are limited to four days a year. It is unreasonable to impose restrictions upon the operation of the Synagogue given it is limited to only a few instances each year. This

is typical of the approach applied for school fetes or similar activities where there is a significant shortfall in the number of car spaces

- The Jewish practice traditionally prohibits physical activity on the Sabbath, limiting the ability to drive to services. In addition, the Transport Management Plan indicates that a shuttle bus will operate prior and after Synagogue services. This is required to be implemented and forms **Conditions F4 and I6**. The bus cannot be accommodated within the basement but would instead stop temporarily in the 'No Parking' area on Ocean Street, which is permitted under NSW road rules
- The relocation of the services on High Holy Days from Queen Street to the subject site should not have a significant impact upon the number of congregants, which is less than 400m away. The current premises in Queen Street are in walking distance of the subject site and so parking or transport habits are unlikely to change
- There is a distinct lack of parking in the immediate locality characterised by several residential flat buildings in the immediate vicinity of the Synagogue having with no off-street car parking. This development is not dissimilar to several residential flat buildings
- Parking within a 100m radius of the Synagogue is a combination of one hour, two hour and all day parking. The following observations are likely to affect people's parking habits:
 - A resident parking scheme is in operation in the area. The Synagogue services occur on Friday night and Saturday morning when most residents are at home and the resident parking scheme is in operation
 - Notwithstanding the above, parking in the area is generally at a premium, with very few premises having off-street car parking
 - The restricted parking areas in John Street, Wallis Street and Woods Avenue allows for parking for one and two hours. Whilst not applicable in all cases, this is often outside of the length of Jewish services
 - Parking on the southern side of Oxford Street is available at all times outside of the morning peak period
- The Synagogue is in very close proximity of several Eastern Suburbs bus routes on Ocean Street and Oxford Street, including 333 and 380 services

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

Many objections received during the notification period conveyed concerns in relation to the impact upon street parking. However, the refusal of the application on parking grounds is not warranted. Nonetheless, appropriate measures to ameliorate some of the issues currently evident in the running of the Synagogue have been detailed in the implementation and approval of a Transport Management Plan in **Conditions F4 and I6**.

10.3.19. Traffic

The application is acceptable on traffic grounds for the same reasons outlined in Section 10.3.18 above. In particular, the proposal will comprise vehicular access within an Ocean Street driveway entrance located within the existing 'No Parking' area opposite John Street and will replace an existing driveway in a similar location. There is a negligible change upon traffic movements in Ocean Street as a result. The impact upon the wider street network is also considered to be acceptable.

10.3.20. Construction Impacts

The property adjoins 14 separate properties and a total of approximately 100 surrounding lot holders. Accordingly, there is sufficient justification for heightened sensitivity for surrounding residents during the construction phase.

Accordingly, the following measures are required:

- Advanced notification is required prior to commencement of works – see **Condition B3**
- All access should be via Ocean Street except for small vehicles via Woods Avenue. This has the concurrent role of minimising truck movements via Woods Avenue, protecting the heritage listed Moreton Bay fig tree and ensuring access is via the works zone – see **Conditions C13 and C14**

10.4. What is the internal amenity?

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

With the exception of the child care facilities, the internal amenity of the buildings is not of paramount concern given the non-residential nature of the development. Nonetheless, the internal amenity of the various buildings on the site is adequate. This includes adequate sunlight for the child care centre classrooms and play area when subject to **Condition C1**.

11. APPLICABLE ACTS/REGULATIONS

11.1. Environmental Planning and Assessment Regulation 2000

11.1.1. Clause 92: What Additional Matters Must a Consent Authority Take Into Consideration in Determining a Development Application?

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E2**.

11.1.2. Clause 94: Consent Authority May Require Buildings to be Upgraded

Clause 94 of the Environmental Planning and Assessment Regulation 2000 requires an assessment of the development application against the Building Code of Australia (BCA), with particular respect to the fire provisions within the development.

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in Annexure 8. Building upgrade is required in **Condition C3** and an annual fire safety schedule is required to be submitted as detailed in **Condition I10**. Council's Fire Officer notes that the deletion of the walkway leading between the northern Synagogue building and the Progressive Synagogue in **Condition C1** is not viewed as having any fire egress implications.

11.1.3. Education and Care Services National Regulation

The current regulations for child care centres are contained within the National Education and Care Services Regulations. These regulations contain the minimum physical space requirements for the premises the service occupies, as noted in the Woollahra Child Care Centres DCP. The NSW Department of Education and Communities is responsible for granting service approval to an operator under these regulations.

Reference is made to Part 4.3 (Physical Environment) of the National Education and Care Services Regulations. It relates to the following requirements:

- a) Clause 103: Premises, furniture and equipment to be safe, clean and in good repair
- b) Clause 104: Fencing
- c) Clause 105: Furniture, materials and equipment
- d) Clause 106: Laundry and hygiene facilities
- e) Clause 107: Space requirements-indoor space
- f) Clause 108: Space requirements-outdoor space
- g) Clause 109: Toilet and hygiene facilities
- h) Clause 110: Ventilation and natural light
- i) Clause 111: Administrative space
- j) Clause 112: Nappy change facilities
- k) Clause 113: Outdoor space-natural environment
- l) Clause 114: Outdoor space-shade
- m) Clause 115: Premises designed to facilitate supervision

Assessment of these provisions has been provided in Section 17.8.

12. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report, or are considered to be satisfactory and not warrant further consideration.

13. THE SUITABILITY OF THE SITE

The total site area is almost 4000m², which is sufficient to accommodate the scale of the proposed redevelopment. It is unfeasible to provide parking on the subject site but this shortfall has been considered to be acceptable. In this regard, the site is considered to be suitable for the proposed development.

14. THE PUBLIC INTEREST

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

14.1. Wider Public Interest

The Congregation of the Temple Emanuel seeks to redevelop the site at 7-9 Ocean Street in order to accommodate the members of the Synagogue community in the Eastern Suburbs and consolidate

the operations of the Synagogue within one allotment of land. The site is capable of accommodating the increased density of the site despite the limited parking arrangements in the surrounding street network and the residential properties surrounding the site.

14.2. Localised Public Interest

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

The level of amenity afforded to adjoining properties has been assessed as acceptable when subject to **Condition C1**, including visual and acoustic privacy, access to sunlight and building separation.

When subject to amendments to setbacks to both Sanctuary buildings and the height of the southern Sanctuary building in **Condition C1**, the proposal represents an appropriate scale to adjoining residential properties.

The lack of parking and the subsequent impact upon the traffic arrangements in Ocean Street, Wallis Street and Woods Avenue is considered to be the primary issue. It is, however, considered to be satisfactory in Sections 10.3.18 and 10.3.19.

14.3. Conclusion

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

The Temple Emanuel was constructed in 1941 and given that the Synagogue seeks to expand demonstrates that there is a need in the local community for such a facility. The impacts upon the surrounding neighbourhood, including the impact upon on-street parking, noise and heritage significance are considered to be acceptable, subject to **Condition C1**.

On this basis, the wider public interest outweighs the localised public interest and the proposal is acceptable.

OTHER MATTERS

The remaining matters are not applicable under the principle of existing use rights but are nonetheless addressed for comparative purposes.

15. SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT) 2005

The land is within the Sydney Harbour catchment but is outside the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

16. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

16.1. Part 1.2: Aims of Plan

The proposal is consistent with the aims in Part 1.2(2) of the Woollahra LEP 2014.

16.2. Part 4.3: Height of Buildings

Subject to the lowering of the building on bulk and scale, heritage and overshadowing grounds in **Condition C1**, the proposal complies with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014 and is also acceptable with regard to the relevant objectives under Part 4.3(1).

16.3. Part 5.10: Heritage Conservation

The subject site comprises three primary heritage items - a Moreton Bay Fig at the rear of the site, 6 Woods Avenue and Temple Emanuel amongst the listing that refers to the Synagogue complex of buildings, interiors and grounds (including Moreton Bay fig).

The terrace houses at 1-5 and 10-19 Woods Avenue and 102-118 Wallis Street (to the east) and 14 Waimea Avenue (Helen Keller House) are also listed as heritage items. The subject site and all surrounding properties are located within the Woollahra heritage conservation area.

The conclusion is that the Moreton Bay Fig will be suitably retained, there are no works to 6 Woods Avenue and the demolition of the Neuweg Synagogue will open up the panorama of the Temple Emanuel. These are all positive outcomes. Further comment is provided in Sections 10.3.1-10.3.3

The relationship of the works to the existing Progressive Synagogue is generally satisfactory and supported by Council's Heritage Officer. This includes the relationship of both of the buildings and the linking structures to the Progressive Synagogue. However, **Condition C1** requires a lowering in the height of the southern Sanctuary building in order to achieve a more subservient element.

The establishment of a rising forecourt to Ocean Street is perceived as a positive element within the Woollahra heritage conservation area.

16.4. Part 6.1: Acid Sulfate Soils

There is unlikely to be any acid sulfate affectation.

16.5. Part 6.2: Earthworks

The proposed excavation for the basement is acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

16.6. Part 6.3: Flood Planning

The proposal is acceptable with regard to Part 6.8 of Woollahra LEP 2014.

17. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

17.1. Chapter C2: Woollahra Heritage Conservation Area

17.1.1. Part C2.3.4: Nelson Precinct Controls

The subject site is located in the Nelson precinct with the following explanation for Temple Emanuel, which is noted as a culturally significant building:

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

Subject to **Condition C1** requiring a reduction in the fences along the front boundary and the lowering of the height of the southern Sanctuary building, the proposal retains the significance of Temple Emanuel. Further, the Neuweg Synagogue is viewed as being appropriate for demolition despite the above notation.

17.1.2. Part C2.4.10: Places of Public Worship, Educational Establishments and Public Buildings

Section 3.3.10 relates to building controls for religious, institutional and public buildings and requires proposals to conform to management policies in a Conservation Management Plan. Despite the absence of an adopted Conservation Management Plan, the proposed changes are considered to be satisfactory on conservation grounds.

17.1.3. Part C2.4.12: Infill Development

In accordance with C3, infill development must maintain the significant features and qualities that combine to represent the character of the neighbourhood and area and make a positive contribution to the character of the neighbourhood and area. Subject to **Condition C1**, the proposal is therefore acceptable with regard to Part C2.4.12 of the Woollahra DCP 2015.

17.1.4. Part C2.5.1: Building Height, Form and Character

Building Location

C6 requires that the rear setback must not extend beyond the established pattern with sufficient provision for useable private open space and landscaped area. **Condition C1** requires the rear setback of the northern Sanctuary building to be setback an additional 4.0m from the western boundary to achieve consistency with the built form of surrounding properties.

Building Height and Form

C7 states that the height, bulk, scale, dominant roof forms, ridge line and building envelope of new development must be consistent. The bulk of new buildings should be distributed to minimise overshadowing of adjoining properties. **Condition C1** requires the lowering of the southern Sanctuary building by 1.1m-1.5m to achieve a more appropriate relationship with the Progressive Synagogue and with respect to retaining solar access to adjoining properties.

C8 states that the character of new development is to be consistent with the character of nearby significant items and the streetscape. Solid to void ratios are to be similar to other significant buildings. The proposal is acceptable on both accounts.

17.1.5. Part C2.5.2: Conservation of Contributory Items

The proposal is acceptable.

17.1.6. Part 2.5.4: Materials, Finishes and Colours

C7 states that original windows, shutters and doors must not be removed, except for conservation and maintenance.

The primary materials to the external face of the buildings comprise perforated metal screens and metal cladding of a grey colour. This contrasts appropriately with the Progressive Synagogue and Council's Heritage Officer raises no objection. **Condition C1** also requires the reuse of all of the existing stain windows in the Neuweg Synagogue within the new southern Sanctuary building. The proposal is therefore acceptable.

17.1.7. Part C2.5.6: Open Space and Landscaping

C11 requires that mature trees on private land are to be retained and incorporated into the landscape treatment. With increased deep soil landscaping arising as a result of the works to the child care centre playground area and with additional replacement planting, the landscape character of the site is improved and the proposal is considered to be acceptable.

17.1.8. Part C2.5.7: Fences, Gates and Retaining Walls

Subject to the lowering of fences in **Condition C1**, the proposal is acceptable with regard to Part C2.5.7.

17.1.9. Part C2.5.8: Parking and Garages

The proposal involves a 14 car basement (with two disabled car spaces) forward of the Progressive Synagogue. It will be serviced by a single width driveway to Ocean Street.

C1 acknowledges that parking servicing areas may not be permitted in certain circumstances, including where it impacts upon the amenity of an adjoining property, the health of a significant tree, the character of a streetscape or laneway or the significance or architectural character of a building on the site or on an adjacent site, where excessive excavation is required, where the driveway has a non-compliant grade or there is an impact upon pedestrian and vehicular movement.

The proposal is satisfactory on account of all of the above. **Condition C1** requires the removal of the driveway crossover to Woods Avenue. Similarly, where C2 requires parking to be provided behind the front building alignment, the basement arrangement in front of the Progressive Synagogue is satisfactory.

C3 does not permit any additional vehicle crossovers off street frontages. The proposal involves the relocation of the driveway from the southern side of the Ocean Street frontage to the northern side. This will necessitate the removal of the redundant crossover as noted in **Conditions C1 and C6**. To improve entry and access to the site and allow for two way vehicular movement, the crossover is to be widened to 6m in **Conditions C1 and C6**. As it is located in a No Parking' area, it will not affect existing parking.

The proposal is therefore acceptable with regard to Part C2.5.8 of the Woollahra DCP 2015.

17.1.10. Part C2.5.9: Security

Subject to a reduction in the height of the front fence (which is proposed partly for security purposes) in **Condition C1**, the proposal is acceptable with regard to Part C2.5.9 of the Woollahra DCP 2015.

17.1.11. Part C2.5.10: Excavation

C3 does not permit excavation forward of the front alignment. In this instance, the excavation will be located in the forecourt. It will be adequately removed from contributory and heritage items and enable a positive ground level forecourt treatment. It is acceptable with regard to C3.

C4 requires excavation be setback at least 1.5m from side boundaries. The driveway will be located 0.9m from the northern boundary but it is generally setback 1.5m from the boundary at basement level. The southern setback of the ramp is at least 1.7m.

On the basis of the above and with respect to relevant geotechnical conditions, the proposal is acceptable with regard to Part C2.5.10 of the Woollahra DCP 2015.

17.1.12. Part C2.5.12: Acoustic and Visual Privacy

C5 stipulates that electrical, mechanical, hydraulic and plant equipment are to be suitably housed so as to not create an 'offensive noise', either within or at the boundaries of any property at any time of the day.

C10 states that direct overlooking of the main living areas or private open space of an existing dwelling from windows, balconies, stairs, landings, terraces and decks or other private, communal or public areas within a development is to be obscured or screened. Screening is not required where windows are in non-habitable rooms or have a sill height above 1.5m.

Subject to **Condition C1**, the proposal is acceptable. See Sections 10.3.12 and 10.3.13.

17.1.13. Part C2.5.13: Site Facilities and Aerial Devices

The proposal is acceptable.

17.2. Chapter E1: Parking and Access

Were it applicable in this instance, Chapter E1 stipulates that places of public worship require 22 spaces/100m². Child care centres also require staff parking of 0.5 spaces/100m² whilst office space requires 2.0 spaces. Where premises are proposed to be used for more than one purpose, the parking provision shall be such as to satisfy the requirements of this DCP in relation to each purpose.

The existing parking arrangement originally comprised approximately 14 informal car spaces within the front forecourt although it is likely that only eight vehicles are able to be parked legally in this space. This has now temporarily been converted to outdoor play area as part of DA413/2012.

The existing uses result in the following parking generation rates:

Building/Use	Area	Parking Rate (per 100m ²)	Parking Spaces Required
Synagogue	1280m ²	22 spaces	281.6 spaces
Child Care	330m ²	0.5 space	1.65 spaces
Office space	340m ²	2 spaces	6.8 spaces
Total	1950m ²		291 spaces

Accordingly, there is a shortfall of 283 spaces when accounting for the previous parking scenario.

The proposed redevelopment comprises a formal basement car park for 14 vehicles and the proposed redevelopment results in the parking following generation rates:

Building/Use	Area	Parking Rate (per 100m ²)	Parking Spaces Required
Synagogue	1,790m ²	22 spaces	393.8 spaces
Child Care	400m ²	0.5 space	2 spaces
Office space	270m ²	2 spaces	5.4 spaces
Total	2460m ²		402 spaces

The proposal represents a net improvement of six (6) spaces. Accordingly, with the additional Synagogue floor area, the intensification of the site will result in a net additional 105 car spaces.

The above issues have been discussed in the Traffic Report submitted by the applicant and in the assessment undertaken by Council's Traffic section. It includes reference to 72 additional vehicle movements instead of the 125 noted above:

The Synagogue presently generates approximately 40 vehicles for every 100 Synagogue attendees. As previously presented in Table 1, the proposal will result in an additional 180 congregants on site at any one time during busy periods. This represents an additional 72 vehicles.

The main issues to consider include:

- The additional floor area is not representative of the likely increase in parking demand and traffic generation
- The Neuweg Synagogue and office building to the north of the Progressive Synagogue is being demolished such that the actual increase realistically relates to the southern Sanctuary building
- The proposed parking situation is similar to other Church congregations in the Municipality
- The Synagogue currently operates with a significant shortfall in parking
- Albeit to a greater scale than other Churches, the shortfall is primarily confined to one or two services/days a week and only four days a year in the case of High Holy days
- There is a distinct lack of parking in the immediate locality characterised by residential flat buildings with no off-street car parking

These and other issues are discussed in Sections 10.3.18 and 10.3.19.

E1.7.4 requires vehicular parking for people with a disability in accordance with AS2890.6. Two spaces have been provided in the basement, with ramp access from the basement. This is an acceptable outcome as a proportion of the total number of parking spaces.

Condition C1 also requires the widening of the driveway and crossover to 6.0m to enable two way access to the basement in accordance with AS2890.1.

17.3. Chapter E2: Stormwater and Flood Risk Management

The proposal is acceptable.

17.4. Chapter E3: Tree Management

Council's Trees Officer has considered the proposal against the relevant considerations in Chapter E3, including but not limited to:

- i) *Where tree removal is proposed, matters of surrounding canopy cover, amenity issues and the opportunity for replacement planting are to be considered*
- ii) *The contribution the tree provides to the canopy cover, amenity, environment and landscape of the immediate and surrounding area*

The existing site is not an example of a well-established landscaped area and as such, the proposed landscape plan achieves an acceptable outcome.

- iii) *For a heritage listed tree or a tree located in the grounds of a heritage listed property—the impact of the proposed works on the heritage significance of the item and its curtilage, and the amenity and landscape setting of the surrounding area. A heritage impact assessment may be required*

Conditions B4 and C1 require modifications to the heritage listed Moreton Bay fig in the frontage to Woods Avenue to ensure that the play equipment is outside of the tree protection zone.

17.5. Chapter E5: Waste Management

The applicant provided a Site Waste Minimisation and Management Plan (SWMMP) with the development application and it was found to be satisfactory. However, the following is noted with respect to waste management through the ongoing operations of the site, including the Synagogue and child care centre:

As the existing use is not being intensified the current collection regime will be continued. Bin storage is located within the childcare precinct. Accessible grades connect the store to Woods Ave. Bins will be placed kerbside for collection.

With the exception that the child care centre capacity is unchanged at 60 children, Council disagrees with the above conclusion as the proposal involves additional floor area and increased patronage capacity for the Synagogue. With the redevelopment of the site, there is sufficient justification to establish a consolidated approach with respect to waste storage and collection procedures. There is also no provision for waste storage on the architectural plans.

As such, **Condition C1** requires the following with respect to waste management:

- Establishment of a defined waste storage area for the child care centre with collection via Woods Avenue
- Establishment of a defined waste storage area for the remainder of the site with collection via Ocean Street
- The areas being to non-habitable spaces, integrated within the building design and enabling level access.

In doing so, the proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

17.6. Chapter E6: Sustainability

The proposal is acceptable.

17.7. Chapter E8: Adaptable Housing

Level access is provided to the northern Sanctuary and the Progressive Synagogue via ramps from Ocean Street and a passenger lift as well as the basement. Level access is also provided to the southern Sanctuary as well as the outdoor areas of the site via a ramp from Woods Avenue and lifts. In this regard, the proposal exhibits positive accessibility outcomes and is acceptable.

17.8. Chapter F1: Child Care Centres

The site currently houses a 60 place child care centre with classrooms located on the western boundary, a central open play area and access via Woods Avenue. Pick up and drop off is not permitted in Woods Avenue under any circumstances and is instead via a dedicated pickup/drop off area in Wallis Street. As approved in DA570/2014, opening hours are 7.30am to 6pm for 48 weeks.

The subject application seeks only to alter the operations of the child care centre by way of the new classroom development and play area. No change to ages of children or hours of operation is proposed. This is reiterated in **Condition I1**.

17.8.1. Part F1.3.1: Streetscape

C1 requires the child care centre to be designed to be consistent with the character of the streetscape with C2 requiring compliance with the building envelope controls. As noted throughout the report, the development as a whole achieves a satisfactory built form and is appropriate with respect to the limited sightlines from the public domain.

17.8.2. Part F1.3.2: Visual and Acoustic Impacts

C1 requires the minimisation of disturbance to surrounding residents through design, siting, separation, soft close gates, noise barriers, fencing, noise absorbing materials and operational management. An operational plan and acoustic report is also required.

Conditions I1 and I3 require compliance with the Management Plan and Acoustic Report, as required to be amended in **Conditions F2 and C1** respectively.

C2 requires bins to be stored where they minimise noise and odour. The SWMMP indicates that a waste storage has been provided, it is not noted on the plans. This is required in accordance with **Condition C1**.

C3 requires compliance with the general privacy controls and C4 seeks to eliminate views to adjoining properties. The siting of the classrooms and play area at existing ground level (RL 74) will enable adequate visual privacy for surrounding residents with vegetation and 1.8m high boundary fencing allowing for screening.

17.8.3. Part F1.3.3: Pick-up, Drop-off and Parking

No changes to pick up and drop off are proposed although a new accessible ramp is proposed from Woods Avenue in lieu of a vehicle driveway. This is a positive outcome.

17.8.4. F1.3.4 Design of Child Care Centre: Internal Layout and Design

No of Children: 60	Proposed	Control	Complies
Placements for Children Under 2YO	None	30% of Total	No change
Nappy Change Area	Provided	Required	YES
Hand Basin	Provided		YES
Baby Bath	Provided		YES
Bench			
Office Space	Two Offices Provided at Ground Level	Required	YES
Staff Room	Provided at Ground Level	Required	YES
Location of Play Area	At Natural Ground Level	At Natural Ground Level	YES

C1 states that at least 30% of child care places are to be provided for under 2 years of age. Due to the constraints and circumstances of the site and pick up and drop off arrangements, the existing child care centre does not cater for 0-2 year olds and the proposal does not seek to alter this.

C2 requires casual surveillance of entry and exit points whilst C3 requires sightlines to outdoor and indoor play, bathrooms and changing rooms. The development exhibits excellent surveillance with the classrooms opening onto the play area, the staff room being adjacent to the toilet facilities and the access from Woods Avenue being unchanged.

C4 requires windows to indoor play areas to allow for natural light with C5 requiring natural ventilation. The classrooms will be east facing and located 5.0m under the undercroft of the Sanctuary area above. With sliding doors to the eastern side of the rooms opening onto the play area, there is ventilation and a degree of natural light afforded to the spaces. However, **Condition C1** requires the enlargement of the classroom space in order to improve access to sunlight (and to achieve compliance with the internal areas specified in the Regulations).

C6 requires easy access for children's bathrooms for supervision purposes and C7 requires bathroom design that is easy to use for children. As noted above, the proposal achieves this outcome and as specified in **Condition I1**.

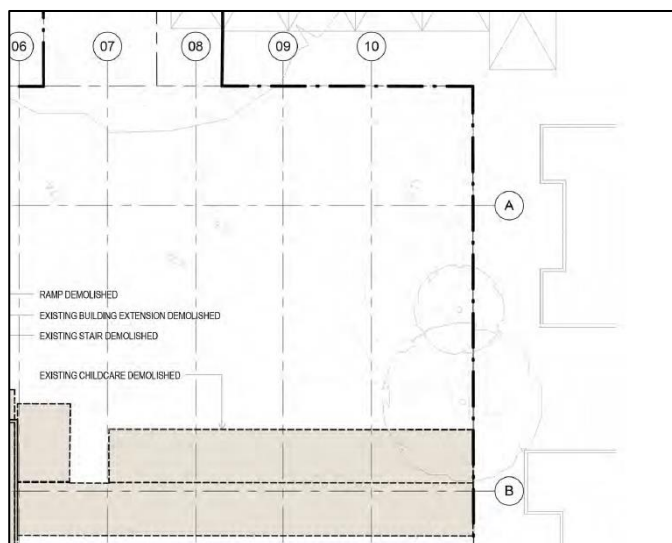
17.8.5. Part F1.3.5: Design of Child Care Centre: Indoor and Outdoor Areas

No of Children: 60	Proposed	Control	Complies
Indoor Play Area	63m ² x 3 = 189m ²	3.25m ² per child (195m ²)	NO
Craft Sink	Provided	Required	YES
Outdoor Play Area	> 550m ²	7m ² per child (420m ²)	YES
Percentage of Outdoor Play Area for Gross Motor Skills (Running)	78% (330m ²)	33% (140m ²)	YES
Percentage of Outdoor Play Area for Focused Play (Contained Play)	> 33% (> 140m ²)	33% (140m ²)	YES

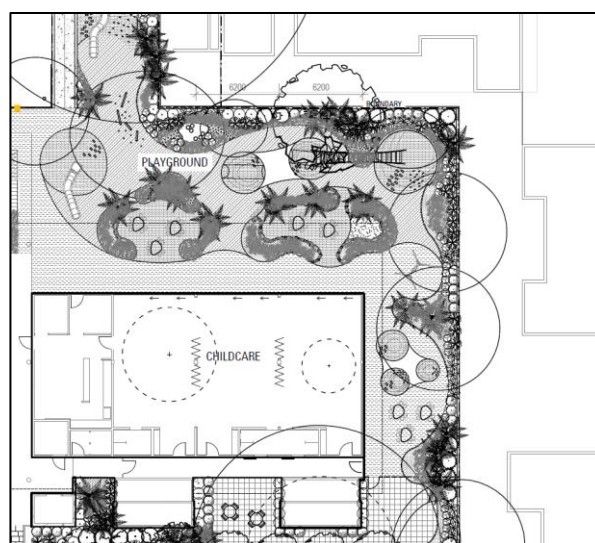
No of Children: 60	Proposed	Control	Complies
Percentage of Outdoor Play Area for Free, Active and Physical Play	> 50% (> 210m ²)	50% (210m ²)	YES
Outdoor Play Requirements	Directly Accessible	Accessible from Indoor Play	YES
	Accessible	Access to Toilet	YES
	East	To the North of North West	NO
	Sightlines Provided	Sightlines Provided	YES
	Not Near Parking	Separated from Parking	YES
	Fenced to 1.8m	Fenced to 1.8m	YES
Rainwater Tank	None Provided	2,000L Tank Required	Condition C1

C1 requires indoor play area at the rate of 3.25m² per child with C2 requiring provision for a separate craft sink. The applicant has included the area of door swings in the calculation of the internal play area, which is not permitted in accordance with the Regulations. As a result, the proposal exhibits a non-compliance with C1 of 2m² that is required to be rectified in **Condition C1** with the relocation of the wall towards to the eastern boundary by 2m.

C4 requires separation between the active and open areas of the outdoor play area and neighbouring habitable room windows. With respect to the existing arrangement which has an expansive play area adjacent to six surrounding properties, the proposal maintains the status quo but achieves a more sympathetic design that allows improved screening to neighbouring residents. It is viewed that this is a net improvement in terms of separation and privacy.



Existing play area



Proposed play area

C10 notes that outdoor play areas are to be to the north or north east of the site. This is not the case in this instance, with the play area to the east and south of the building. Some is also located within the undercroft space. This is a positive arrangement as it allows for shading of some areas but with ready access to sunlight along the eastern side in the morning period. Adequate daylight will be provided to most areas.

C13 requires a 2,000L rainwater tank on site. A rainwater tank is specified in the documentation but not nominated in the architectural plans. This is required in **Condition C1**.

17.8.6. Temporary Relocation of Child Care Centre (DA413/2012/1)

The extensive construction phase will result in the closure of the child care centre at some point. As part of the lapsed DA355/2009/1, DA413/2012/1 allowed for the temporary relocation of the child

care centre to the existing building to the north of the Progressive Synagogue during the construction of DA355/2009/1.

An Occupation Certificate for DA413/2012 was issued in January 2015 although it is apparent that not all relevant conditions have been complied with. Whilst there is some dispute with respect to the legality of DA413/2012 in relation to a lapsed development consent (DA355/2009), all relevant conditions from DA413/2012 have been transferred and consolidated in this recommendation. This will allow for consistent operation and minimal disruption to the child care centre during the construction phase. See **Condition J1**.

17.8.7. Conclusion

With respect to the above, the proposal is acceptable with regard to the objectives and controls in Chapter F1 of the Woollahra DCP 2015. Relevant conditions applied in DA570/2014 have been applied in this application. See **Conditions F1, F2 and I1-I4**.

18. SECTION 94 CONTRIBUTION PLANS

18.1. Section 94A Contributions Plan 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011. Refer to **Condition C2**.

Cost of Works	Rate	Contribution Payable
\$11,615,985	1%	\$116,159

19. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 79C. It is also acceptable with regard to ecologically sustainable development.

20. DISCLOSURE STATEMENTS

There have been no disclosure statements regarding political donations or gifts made to any Councillor or to any council employee associated with this development application by the applicant or any person who made a submission.

21. RECOMMENDATION: PURSUANT TO SECTION 80(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Joint Regional Planning Panel, as the consent authority, grant development consent to DA307/2015/1 for the demolition of the Neuweg Chapel, administration building and child care centre to the south of Emanuel Synagogue and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery on land at 7-9 Ocean Street, Woollahra, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

A.2 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)
27086-SYD-N	Acoustic Report	Wood and Grieve Engineers	2 June 2015
Rev June 2015	Plan of Management	Emanuel Synagogue	June 2015
SD-A010 C, SD-A100 L, SD-A1-1 I, SD-A300 I, SD-A301 F, SD-A320 I, SD-A321 E,	Architectural Plans	Architectus	23 June 2015
June 2015	Child Care Plan of Management	Emanuel Woollahra Preschool	June 2015
45892.01	Geotechnical Report	Douglas Partners	December 2014
067898-04BCA	BCA Report	McKenzie Group	21 November 2014
102, 103, 104 105, 106 and 107 (all Issue 4)	Landscape Plan and Supporting Documentation	Arcadia Landscape Architecture	June 2015
109, 110, 111 (all Issue D)			9 June 2015
DA355/2009/1	Addendum to Arborist Report	Earthscape Horticultural Services	10 December 2012
227297	Tree Protection Plan and Specifications		November 2012
T12-11284	Tree Removal and Retention Plan		18 March 2014
Fig 1 to 7 Rev B	Stormwater Management Plan	Wood and Grieve Engineers	25 May 2015
	Traffic Report	ARUP	5 June 2015

Appendix A	Site Waste Minimisation and Management Plan	Peter Dawson	25 November 2014
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Note: Warning to Accredited Certifiers – You should always insist on sighting the original Council stamped approved plans. You should not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with the original copy Council will provide you with access to its files so you may review our original copy of the approved plan.

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

Standard Condition: A5

A.3 Ancillary Aspect of the Development (s80A(2) of the Act)

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to Council's satisfaction in accordance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February 2012 unless expressly provided otherwise by these conditions at the *owner's* expense.

Note: This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

Standard Condition: A8

A.4 Tree Preservation and Approved Landscaping Works

All landscape works shall be undertaken in accordance with the approved landscape plan, arborist report, tree management plan and transplant method statement as applicable.

- a) Trees are to be retained in accordance with approved Tree Removal and Retention Plan T12-11284 and the following:

Ref No	Species	Location	Dimension	Tree Value
2	<i>Flindersia australis</i> Crow's Ash	Front – Ocean Street frontage	12 x 6 metres	\$2000
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	14 x 15 metres	N/A
24	<i>Robinia pseudoacacia</i> Robinia	Rear – north eastern corner	12 x 9 metres	
25			10 x 10 metres	
26			12 x 13 metres	
28			10 x 9 metres	
32	<i>Ficus macrophylla</i> Moreton Bay Fig	Rear – Adjacent to Woods Avenue entry	20 x 28 metres	
33	<i>Podocarpus elatus</i> Plum Pine	Rear – south eastern corner	17 x 9	
34	<i>Stenocarpus sinuatus</i> Queensland Firewheel Tree		9 x 5	
35	<i>Podocarpus elatus</i> Plum Pine		16 x 10	

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

- b) Trees are to be removed in accordance with approved Tree Removal and Retention Plan T12-11284.
Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.
- c) With the exception of the Moreton Bay fig (tree 32) and the row of Robinas (Trees 24-28), trees are to be pruned in accordance with the approved Tree Protection Plan, prepared by Earthscape Horticultural Services, dated November 2012 and *Australian Standard Pruning of Amenity Trees* (AS 4373) and *Workcover NSW Code of Practice Amenity Tree Industry*, to the minimum extent necessary to provide clearance to the new development.
- d) No pruning of the Moreton Bay fig tree is permitted as part of this development consent.

A.5 Acoustic Testing

The child care centre is to be assessed in operation mode with maximum allowable children in each area in accordance with the required acoustic treatments stated within the Acoustic Report (Project No 27086-SYD-N, prepared by Wood and Grieve Engineers and dated 2 June 2015).

This assessment is to be undertaken by a certified acoustic engineer, measured at the boundaries of each affected property and shall provide clear evidence of compliance with Council's imposed noise criteria condition for operation of the childcare centre. In the event of non-compliance, appropriate measures are to be undertaken to ensure compliance. If this requires design modifications, it may require a modification to the consent.

The assessment is to be undertaken and submitted to Council for certification within two (2) months of the childcare centre opening.

A.6 Amending Development Application

In the event of any inconsistencies between the approved plans for DA307/2015/1 and DA413/2012/1, DA307/2015/1 prevails.

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

B.1 Construction Certificate required prior to any demolition

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

Note: See *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
Standard Condition: B1

B.2 Public Road Assets prior to any work/demolition

To clarify the condition of the existing public infrastructure prior to the commencement of any development (including prior to any demolition), the *Applicant* or *Owner* must submit to Council a full record of the condition of the Public Road infrastructure adjacent to the development site.

The report must be submitted to Council prior to the commencement of any work and include photographs showing current condition and any existing damage fronting and adjoining the site to the:

- Road pavement,
- Kerb and gutter,
- Footway including footpath pavement and driveways,
- Retaining walls within the footway or road, and
- Drainage structures/pits.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Applicant or Owner fails to submit the Asset condition report required by this condition and damage is occasioned to public assets adjoining the site, Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose
Standard Condition: B7

B.3 Notification of Commencement of Work

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

- 1, 3, 5, 11, 13 and 15 Ocean Street
- 3 and 5 Kilminster Lane
- 14 Waimea Lane
- 1-5, 10 and 11-19 Woods Avenue
- 96-108 Wallis Street

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

B.4 Recording of Neuweg Synagogue

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

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

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

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

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

Note: Refer to the NSW Department of Planning Heritage Branch website,
www.heritage.nsw.gov.au/docs/info_photographicrecording2006.pdf
Standard Condition: B3

B.5 Stain glass windows in Neuweg Synagogue

All stain glass windows from all elevations of the Neuweg Synagogue are to be retained prior to demolition to be reused within the new development.

B.6 Establishment of Tree Protection Zones

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

- Tree Protection Zone areas are to be established in accordance with the recommended Tree Protection Plan and Specifications, prepared by Earthscape Horticultural Services, dated November 2012 and as follows:

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

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

Note: Where this condition relates to trees on private property the radial distance of fencing shall be positioned only within the subject property.

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

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

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

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

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

Standard Condition: B5

B.7 Arborists Documentation and Compliance Checklist

The site arborist shall provide written certification that all tree protection measures and construction techniques relevant to this consent have been complied with. Documentation for each site visit shall include:

- A record of the condition of trees to be retained prior to and throughout development
- Recommended actions to improve site conditions and rectification of non-compliance
- Recommendations for future works which may impact the trees

All compliance certification documents shall be kept on site by the Site Foreman.

As a minimum the following intervals of site inspections must be made:

Stage of arboricultural inspection	Compliance documentation and photos shall be included
Installation of all tree protection fencing	Compliance with tree protection measures - Ensure that all recommended protections of Tree 32 are in place
Inspection of irrigation set out	Appropriate distribution of irrigation water
Prior to pouring of slab	Condition of roots and soil
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications. Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

C.1 Modification of details of the development (Section 80A(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:

- Exclusive of the two skylights, the height of the Sanctuary building to the south of the Temple Emanuel is to be lowered by a minimum of 1.5m to a maximum RL 80.85 at its southern end and a maximum RL 82.35 at its northern end
- The setback of the Sanctuary building to the north of the Temple Emanuel from the eastern boundary with 14 Waimea Avenue is to be increased to a minimum of 9.0m at both levels
- The plant rooms to the west of the Sanctuary building to the south of the Temple Emanuel are to be limited to a maximum height of 5.5m (RL 78.4)
- The stain glass windows from all elevations of the Neuweg Synagogue are to be installed in the western elevation of the Sanctuary building to the south of the Temple Emanuel
- Notwithstanding (d) above, any remaining windows to the western elevation of the first floor of the Sanctuary building to the south of the Temple Emanuel are to be fixed and obscure
- The height of the fence to the Ocean Street frontage is to be reduced to a maximum of 1.8m. The fencing along the northern and southern side boundaries, as measured 10m from the front boundary, is to adopt the form, style, materials and height of the front fence, as conditioned

- g) A 1.8m high noise/acoustic barrier is to be affixed to the inside of the eastern, southern and western sides of the child care centre outdoor play area boundary fencing
- h) Notwithstanding (f) and (g) above and with the exception of fencing adjoining properties in Woods Avenue and Wallis Street, side fencing is to be limited to a maximum height of 2.1m or is not to exceed the height of existing boundary fencing on the adjoining properties, whichever is higher. Fencing to common boundaries with properties in Woods Avenue and Wallis Street is limited to a maximum height of 1.8m
- i) The play equipment at the base of the Moreton Bay fig tree (Tree 32) to the Woods Avenue entrance is to be relocated to be outside the Tree Protection Zone of the tree (ie 15m from the base of the tree)
- j) Reference to pruning of Trees 24-28 and 32 is to be removed from all documentation. Pruning of these trees is prohibited
- k) The driveway to the basement is to be widened to 6.0m to allow two way car flow
- l) The redundant crossovers to Woods Avenue and Ocean Street are to be removed
- m) Each of the three classrooms in the child care centre are to be increased by a minimum of 2m² and the eastern wall of the classrooms is to be relocated 2m to the east
- n) Modifications to the Site Waste Minimisation and Management Plan are to be made in the following manner:
 - i) The establishment of a waste storage space, including provision for recycling and compost, in the vicinity of 6 Woods Avenue for the use of the child care centre and collection in Woods Avenue
 - ii) The establishment of a separate waste storage area, including provision for recycling, for use for the remainder of the development with access to Ocean Street
 - iii) The provision of a compost bin for use within the child care centre
- o) The exit landing adjacent to the south western corner of the first floor of the Temple Emanuel is to be setback 1.2m from the western boundary with 5 Ocean Street and a 1.5m privacy screen is to be installed to the western edge
- p) The deck area between the driveway and the Temple Emanuel is to be setback 1.5m from the northern side boundary and comprise a privacy screen to its northern edge to a height of 1.5m
- q) The elevated first floor walkway projecting west of the eastern elevation of the Sanctuary building to the north of the Temple Emanuel is to be deleted in its entirety and a privacy screen is to be established to the eastern edge of the balcony
- r) A roof is to be installed above the staircase leading from the art gallery forecourt. It is to comprise a maximum height of 3.2m above stair level and comprise materials consistent with the roofing to the art gallery forecourt
- s) The plant rooms are to be fully enclosed with block work and the ventilation path air intake and discharge requires to be attenuated with silencers in accordance with Table 17 of the approved acoustic report
- t) All doors to the Sanctuary building to the south of the Temple Emanuel are to comprise self-closing doors
- u) The glazing to the Sanctuary building to the south of the Temple Emanuel is to comprise 12.38mm laminated glass. With respect to (d) above, the stain glass windows are to be appropriately treated to ensure compliance with the relevant levels in the approved acoustic report
- v) The undercroft to the child care centre play area to the east of the classrooms is to be acoustically treated with the same material as specified in (g) above
- w) The 49kL and 10kL rainwater tanks are to be nominated on the architectural and landscape plans
- x) The wire and cyclone fencing to the Kilminster Lane frontage is to be removed

- y) Reference to R1 in the acoustic report is to correctly nominate 1 Ocean Street as the applicable property

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

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

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

Standard Condition: C4

C.2 Payment of Long Service Levy, Security, Contributions and Fees

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

Description	Amount	Indexed	Fee Code
LONG SERVICE LEVY			
under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use online calculator	No	
SECURITY			
under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any <i>Council</i> property	\$267,045	No	T115
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$2000	No	T600
Infrastructure Works Bond -completing any public work required in connection with the consent.	\$45,000	No	T113
DEVELOPMENT LEVY			
under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au .			
Development Levy (Section 94A)	\$11,615 + Index Amount	Yes, quarterly	T96
INSPECTION FEES			
under Section 608 of the Local Government Act 1993			
Public Road/Footpath Infrastructure Inspection Fee	\$430	No	
Public Tree Management Inspection Fee	\$180	No	T95
Security Administration Fee	\$180	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$326,455 plus any relevant indexed amounts and long service levy		

Building and Construction Industry Long Service Payment

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

How must the payments be made?

Payments must be made by:

- Cash deposit with Council,

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

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

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

How will the section 94A levy be indexed?

To ensure that the value the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2011 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

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

Deferred or periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2011

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

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

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

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

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

Standard Condition: C5

C.3 Building upgrade (Clause 94 of the Regulation)

Council considers pursuant to clause 94 of the *Regulation* that it is appropriate to require the existing building to be brought into total or partial conformity with the *BCA*.

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

- a) That travel to exits shall comply with the requirements of Clauses D1.4 & D1.6 of the *BCA* or an alternative solution shall be proposed by an accredited C10 fire engineer meeting performance requirements DP2, DP4, DP6 & EP2.2 of the *BCA*.
- b) That the exit doors shall swing in the direction of egress complying with the requirements of D2.20 of the *BCA*. The doors shall be operable by single handed downward action or pushing action in accordance with the requirements of D2.21 of the *BCA* and shall not encroach the street alignment.
- c) That the discharge from the exits shall comply with the requirements of Clause D1.10 of the *BCA*.
- d) That openings within three (3) metres of the boundary shall be protected in accordance with the requirements of Clause C3.4 of the *BCA* or an alternative solution shall be proposed by a C10 accredited fire engineer meeting performance requirements CP3, CP4 & CP8 of the *BCA*.
- e) That a system of emergency lighting shall be installed throughout the building to provide sufficient light in an emergency in accordance with the requirements of Part E4 of the *BCA*.
- f) That exit signs shall be installed above all required exit doors. Signs shall be illuminated at all times and generally be of sufficient number that direction of travel to all exits is clearly visible from any part of the major egress routes. Exit signs shall be installed to the standard expressed in Clauses E4.5, E4.6 and E4.8 of the *BCA*.
- g) That portable fire extinguishers shall be provided throughout the building to the requirements of Clause E1.6 of the *BCA* and the relevant requirements of AS 2444.
- h) That hydrants shall be installed throughout the building in accordance with the requirements of Clause E1.3 of the *BCA*, or if street hydrants are intended to be used instead of required internal hydrants a certificate shall be provided to Principal Certifying Authority certifying that the location and coverage comply with AS 2419.1 – 2005 and the flows and pressures (evidenced by a Water Authority enquiry form) comply with AS 2419.1 – 2005.

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

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

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

Standard Condition: C10

C.4 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35

C.5 Professional Engineering Details

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

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

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

Standard Condition: C36

C.6 Road and Public Domain Works – Council approval required

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

Road and Footpath – Woods Avenue

- The removal of the driveway cross over

Road and Footpath – Ocean Street

- Full width vehicular crossing on Ocean Street having a width of 6m including new layback and gutter in accordance with Council's standard drawing RF2.
- Removal of all driveway crossings and kerb laybacks in Ocean St to the south of the site
- Removal and replacement of the existing footpath for the full width of the property in accordance with Council's standard drawing RF3.
- Reinstatement of footpath, kerb and gutter to match existing.
- Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

Drainage – Ocean Street

- Construction of a standard gully pit in the kerb fronting the subject site on Ocean Street in accordance with Council's Standard "Grated Gully Pit with extended Kerb Inlet" drawing DR1.

- Construction of approximately 15.0m of 375mm RCP in-ground drainage line across Ocean Street. The line must connect from the new pit on the eastern side of Ocean Street to the existing Council pit located on the western side of Ocean Street on the northern corner of John Street.
- The developer shall be responsible for carrying out any service investigations to allow a gravity connection.

Bond

- A bond of \$45,000 (as noted in Condition C2) is to be used as security to ensure the satisfactory completion of the infrastructure works. The security or bank guarantee must be the original and not have an expiry date.
- Council may use all or part of the Infrastructure Bond as well as the Property Damage Security Deposit to meet the cost of removing or completing the works if they do not meet Council's requirements.
- The Deposit/Bond will not be released until Council has inspected the site and is satisfied that the Works have been completed in accordance with Council approved drawings and to Council requirements

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

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

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

C.7 Utility Services Generally

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

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

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

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any *Construction Certificate* application together with a letter from each relevant supplier setting out their requirements.

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the *Construction Certificate* plans and/or detailed within the *Construction Certificate* specifications. Required

external vents or vent pipes on the roof or above the eaves must be shown on the *Construction Certificate* plans.

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

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

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

Standard Condition: C20

C.8 Soil and Water Management Plan – Submission & Approval

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

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

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

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

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

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

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

Standard Condition: C25

C.9 Ground Anchors

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

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

Temporary ground anchors may be permitted, in accordance with Council’s “Rock Anchor Policy”, where alternative methods of stabilisation would not be practicable or viable, and where there would be benefits in terms of reduced community impact due to a shorter

construction period, reduced disruption to pedestrian and vehicular traffic on adjacent public roads, and a safer working environment.

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

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

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

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

Standard Condition: C41

C.10 Geotechnical and Hydrogeological Design, Certification & Monitoring

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

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

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

Standard Condition: C40

C.11 Parking Facilities

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

- Pedestrian splays shall be provided adjacent to the driveway at the property boundary to ensure safety in accordance with *AS/NZS 2890.1 Clause 3.2.4*.
- The driveway including both access driveway and the straight ramp shall be widened to permit the passage of two opposing vehicles in accordance with *AS/NZS 2890.1:2004*
- *AS/NZS 2890.1:2004 Clause 3.4* requires a queuing area be provided between the vehicular control point and the property boundary to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road.
- Access levels and grades must comply with access levels and grade required by Council under the *Roads Act 1993*.

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

Standard Condition: C45

C.12 Stormwater Management Plan

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

- a) General design in accordance with Stormwater Disposal Concept Plan prepared by Wood & Grieve Engineers Rev 1 dated 25 May 2015 Fig 1 to 7 Rev B dated 25/05/15 other than amended by these amended and other conditions;
- b) The discharge of stormwater, by direct piped connection to a new Council specification Gully Pit in the kerb in Ocean Street
- c) Construction of a standard gully pit in the kerb fronting the subject site on Ocean Street in accordance with Council's Standard "Grated Gully Pit with extended Kerb Inlet" drawing DR1.
- d) Construction of approximately 15.0m of 375mm RCP in-ground drainage line across Ocean Street. The line must connect from the new pit on the eastern side of Ocean Street to the existing Council pit located on the western side of Ocean Street on the northern corner of John Street.
- e) These works will require the submission of a S138 Roads Act application for approval be Council including a full engineering drawing.
- f) Compliance the objectives and performance requirements of the BCA;

- g) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the Stormwater Drainage System, and
- h) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and
- i) On-site stormwater detention ("OSD") in accordance with the following requirements:
 - i) The minimum (OSD) Site Storage Requirements ("SSR") and the Peak Site Discharge ("PSD") from the site must be in accordance with the following minimum storage/discharge relationships based upon a 1000m² site area:

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

Note: All values based on per 1000m² site area (interpolate to site area).

- ii) Where a rainwater tank is proposed in conjunction with OSD, the volume of the rainwater tank may contribute to the SSR 40% of the rainwater tank volume to a maximum of 4m³ where it is for external use only or 75% of the rainwater tank volume to a maximum of 7.5m³ where it is for internal and external uses.

Example: The Site Storage Requirements may be 25,000 litres and a 10,000 litre rainwater tank is to be used for garden irrigation. Therefore, the rainwater tank contributes 4,000 litres toward SSR. Therefore, the OSD tank needs to be 21,000 litres (25,000 litres less the 4,000 litres allowance). Note: 1m³ = 1,000 litres.

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

Layout plan

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

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

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,
- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,

- h) Non-removable fixing details for orifice plates where used,

Copies of certificates of title

- a) Showing the creation of private easements to drain water by gravity, if required.

Subsoil Drainage

- a) Subsoil drainage details
- b) Clean out points
- c) Discharge point.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

Note: The collection, storage and use of rainwater is to be in accordance with *Standards Australia HB230-2008 "Rainwater Tank Design and Installation Handbook"*.
Standard Condition: C51

C.13 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 lack of on-street parking a Work Zone may be required during construction.

The principal contractor or owner must submit an application for approval of the Construction Management Plan by Council's Traffic Engineer and pay all fees associated with the application. The plan must be submitted as a self-contained document that outlines the nature of the construction project and as applicable, include the following information:-

- a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- e) Identify any proposed road closures, temporary traffic routes, loss of pedestrian or cyclist access or reversing manoeuvres onto a public road and provide Traffic Control Plans (TCPs) prepared by an accredited RMS Red or Orange card holder to manage these temporary changes.
- f) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- g) Provide for the standing of vehicles during construction.
- h) If construction vehicles are to be accommodated on the site, provide a scaled drawing showing where these vehicles will stand and the vehicle swept path to show that these vehicles can access and egress the site in a forward direction (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).
- i) If trucks are to be accommodated on Council property, provide a scaled drawing showing the location of any proposed Works Zone (including dimensions and all adjacent traffic control devices, such as parking restrictions, pedestrian facilities, kerb extensions, etc.).

- j) Show the location of any site sheds and any anticipated use of cranes and concrete pumps and identify the relevant permits that will be required.
- k) If a crane/s are to be accommodated on site, detail how the crane/s will be erected and removed, including the location, number and size of vehicles involved in the erection/removal of the crane/s, the duration of the operation and the proposed day and times, any full or partial road closures required to erect or remove the crane/s and appropriate Traffic Control Plans (TCPs) prepared by an approved RMS Red or Orange Card holder.
- l) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- m) State that any oversized vehicles proposed to operate on Council property (including Council approved Works Zones) will attain a Permit to Stand Plant on each occasion? (Note: Oversized vehicles are vehicles longer than 7.5m or heavier than 4.5T.
- n) Show the location of any proposed excavation and estimated volumes.
- o) When excavation works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- p) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council)

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

C.14 Works (Construction) Zone – Approval & Implementation

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

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

Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

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

C.15 Light and Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and

[AS/NZS 3666.1](#). If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicants must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).
Standard Condition C59

C.16 Acoustic Certification of Mechanical Plant & Equipment

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level measured at any boundary of the site at any time while the proposed mechanical plant and equipment is operating will not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level*, at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90, 15 \text{ minute}}$ level measured by a sound level meter.

Where sound attenuation is required this must be detailed.

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

1. **Australian Acoustical Society**—professional society of noise-related professionals (www.acoustics.asn.au/index.php).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).

Standard Condition: C62

C.17 Compliance with Acoustic Assessment Recommendations

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must detail all works required to be undertaken within the Acoustic Report (Project No 27086-SYD-N, prepared by Wood and Grieve Engineers and dated 02 June 2015). This includes the stain glass windows to the western elevation of the Sanctuary building to the south of the Temple Emanuel as specified to be installed in Condition C1.

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

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

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C60

C.18 Sound Attenuation of the Outdoor Play Area

All sound attenuation works are to be undertaken to the outdoor play area to ensure that the noise level measured at any boundary of the site complies with the recommendations within the Acoustic Report (Project No 27086-SYD-N, prepared by Wood and Grieve Engineers and dated 02 June 2015).

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the L_{A90} , 15 minute level measured by a sound level meter.

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

1. **Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au /index.php](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C61

C.19 Food Premises – Construction Certificate Plans & Specifications

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

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

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

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fit out of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation* 2000 as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.
Standard Condition: C65

C.20 Ventilation of Basement

The (*nominate enclosure*) in which vehicles powered by internal combustion engines are parked, serviced or operated are required to comply with Section 4 'Ventilation of Enclosures used by Vehicles with Internal Combustion Engines' of Australian Standard 1668.2-1991. In general air distribution must achieve uniform dilution of contaminants in the garage and maintain contaminant concentrations below recommended exposure standards.

The (*nominate enclosure*) must be naturally ventilated or provided with a combination of both supply and exhaust mechanical ventilation. The applicant is to determine the method of ventilation of the (*nominate enclosure*) and provide details to the Certifying Authority accordingly. Except as varied in accordance with Clause 4.4.1 (a), (b) or (c), the (*nominate enclosure*) shall be mechanically ventilated by a combination of general exhaust and supply flow rates in accordance with Australian Standard 1668.2-1991.

C.21 Ventilation - Internal Sanitary Rooms

All internal sanitary rooms and laundry facilities not provided with natural ventilation must be provided with a system of mechanical exhaust ventilation in accordance with *Table B1 Minimum Exhaust Ventilation Flow Rates of AS 1668.2-1991*. Details of any proposed mechanical ventilation system(s) being submitted with the Construction Certificate plans and specifications, required to be submitted to the Certifying Authority demonstrating compliance with AS 1668 Parts 1 & 2.

C.22 Noise Management Plan – Child Care Centre

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

- a) A separate daily program for both the warmer and cooler months should be established in order to regulate the total time spent outdoors and indoors;
- b) The program should be made publicly available to parents and neighbours;
- c) A contact phone number for the Centre's director should be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the centre;
- d) The number of children playing outside at any one time is limited to 40
- e) The total time spent outside in the play area must be limited to less than 2 hours per day to meet the noise criteria;
- f) Crying children should be taken inside the centre and comforted
- g) The behaviour of children should be monitored and modified as required by adequately trained child care workers;
- h) Parents and guardians should be informed of the importance of noise minimisation when entering the site, dropping off or picking up children; and amplified music may need to be avoided to meet the noise criteria.

C.23 Waste Storage

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management in accordance with the approved waste management plan and the modifications specified in Condition C1. Waste Storage Areas must meet the following requirements:

- a) Dedicated and enclosed waste, recycling and compost storage areas in accordance with Condition C1
- b) Bins must be stored with lids down to prevent vermin from entering the waste containers.
- c) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot

and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.

- d) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- e) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- f) Odour problems must be minimised by good exhaust ventilation.
- g) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- h) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

Standard Condition: C19

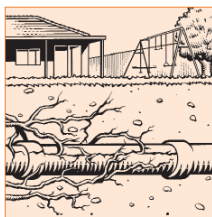
C.24 Water and waste water - Section 73 Developers Certificate and Upgrading of existing system

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. The effect of this certificate is that adequate provision has been made or is available for the provision of potable water to and the removal of waste water from the development.

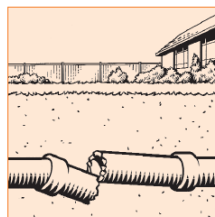
Note: Following application to Sydney Water, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with Sydney Water's authorised Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Note: Applications must be made through an authorised Water Servicing Coordinator. For help either visit <http://www.sydneywater.com.au/BuildingDeveloping/DevelopingYourLand/WaterServicingCoordinators.cfm> or telephone 13 20 92.

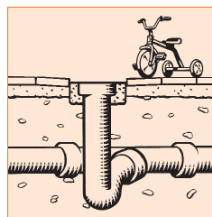
The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Waters sewer main where they are not found by inspection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



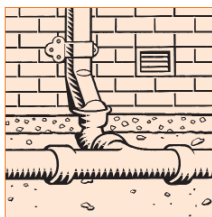
Cracked pipes



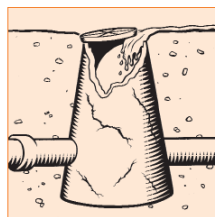
Broken pipes



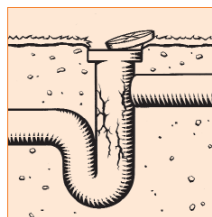
Damaged or low-lying gullies



Direct stormwater connections



Hidden or damaged maintenance holes



Hidden or damaged inspection points

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 systems are replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main as part of the development, 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. See:

<http://www.sydneywater.com.au/Publications/Factsheets/SewerfixLookingAfterYourSewerPipes.pdf>

Standard Condition: C22

C.25 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

The approved plans must be submitted to a Sydney Water Quick Check agent to determine whether the development will affect any Sydney Water wastewater and water mains, stormwater drains and/or easement, and any requirements need to be met. Plans will be appropriately stamped.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – see Building and Development then Quick Check and
- Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building and Development then Building and Renovating

Note: Further information can be obtained from the Sydney Water Corporation by visiting their web site: <http://www.sydneywater.com.au> or telephone 13 20 92.

Standard Condition: C24

C.26 Tree Management Details

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

- a) Trees to be numbered in accordance with these conditions,
- b) Shaded green where required to be protected and retained,
- c) Shaded yellow where required to be transplanted,
- d) Shaded blue where required to be pruned,
- e) Shaded red where authorised to be removed and,
- f) References to applicable tree management plan, arborists report, transplant method statement or bush regeneration management plan.

Standard Condition: C30

C.27 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 setback 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 setback 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 is 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

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

D.1 Compliance with Building Code of Australia

For the purposes of section 80A(11) of the *Act*, the work must be carried out in accordance with the requirements of the Building Code of Australia, as in force on the date the application for the relevant construction certificate is made.

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

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

D.2 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely “zone of influence” of any excavation, dewatering and/or construction induced vibration.

These properties must include (but is not limited to) 5 Ocean Street, 11 Ocean Street and 98 Wallis Street.

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

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

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition
Standard Condition: D4

D.3 Works (Construction) Zone – Approval and Implementation

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

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

Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (Woollahra Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

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

Standard Condition: D10

D.4 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

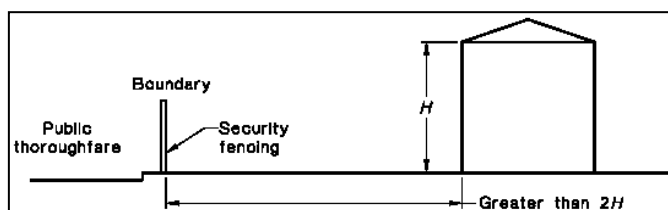
Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

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

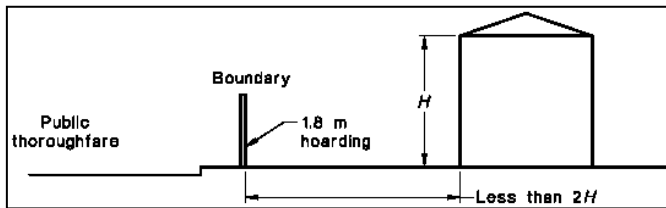
Standard Condition: D14

D.5 Security Fencing, Hoarding and Overhead Protection

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



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

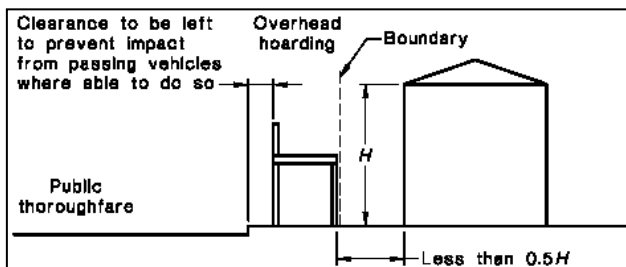


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:

http://www.workcover.nsw.gov.au/formspublications/publications/Pages/WC00017_OverheadProtectiveStructuresCodeofPracti.aspx

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

Note: The *principal contractor* or *owner* must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act 1993* will be subject to its own conditions and fees.
Standard Condition: D11

D.6 Site Signs

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

Clause 98A of the Regulation provides:

Erection of signs

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

Clause 227A of the Regulation provides:

Signs on development sites

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

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

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

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

Standard Condition: D12

D.7 Erosion and Sediment Controls – Installation

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

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14

D.8 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

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

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

- Note:** *building* has the same meaning as in section 4 of the *Act* and includes part of a building and any structure or part of a structure.
- Note:** *new building* has the same meaning as in section 109H of the *Act* and includes an altered portion of, or an extension to, an existing building.
- Note:** The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.
- Note:** *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website www.woollahra.nsw.gov.au.
- Note:** It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.
- Standard Condition: D15

D.9 Toilet Facilities

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

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

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

In this condition:

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

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

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

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

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

Standard Condition: D13

D.10 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

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

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

http://www.sydneywater.com.au/html/yourhome/quick_check/building_renovating.cfm

Standard Condition: D19

D.11 Permissible work within Tree Protection Zones

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

a) Permissible Work within Tree Protection Zones

Council Ref No	Species	Location	Tree Protection Zone (radius)	Approved works within incursion
24	<i>Robinia pseudoacacia</i>	Rear – north eastern corner	5.8m	Excavation for retaining wall to west of tree
25	Robinia		6.0m	
26			7.2m	
28			5.3m	

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

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

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

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia

For the purposes of section 80A(11) of the Act, the work must be carried out in accordance with the requirements of the Building Code of Australia, as in force on the date the application for the relevant construction certificate is made.

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

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.
Standard Condition: E1

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: The Demolition of Structures, published by Standards Australia, and as in force at 13 September 2001.

Standard Condition: E2

E.3 Compliance with Construction Management Plan

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

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

Standard Condition: E3

E.4 Public Footpaths – Safety, Access and Maintenance

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

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any *work*.
- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

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

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

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

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

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

otherwise than with the consent of the appropriate roads authority.

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

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

Standard Condition: E7

E.5 Maintenance of Environmental Controls

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

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

Note: See http://www.epa.nsw.gov.au/small_business/builders.htm for additional information.

Standard Condition: E11

E.6 Compliance with Geotechnical/Hydrogeological Monitoring Program

Excavation must be undertaken in accordance with the recommendations of the *Geotechnical / Hydrogeological Monitoring Program* and any oral or written direction of the supervising *professional engineer*.

The *principal contractor* and any sub-contractor must strictly follow the *Geotechnical / Hydrogeological Monitoring Program* for the development including, but not limited to;

- a) the location and type of monitoring systems to be utilised;
- b) recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the *professional engineer*; and
- c) the contingency plan.

Note: The consent authority cannot require that the author of the geotechnical/hydrogeological report submitted with the Development Application to be appointed as the *professional engineer* supervising the work however, it is the Council’s recommendation that the author of the report be retained during the construction stage.

Standard Condition: E12

E.7 Support of adjoining land and buildings

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

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

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

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

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

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

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

Standard Condition: E13

E.8 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

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

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

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

Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a

written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

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

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

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

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

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

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

E.9 Erosion and Sediment Controls – Maintenance

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

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

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



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

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

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

Standard Condition: E15

E.10 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

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

Standard Condition: E17

E.11 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works* dated February 2012.

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

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

Note: A copy of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" can be downloaded free of charge from Council's website www.woollahra.nsw.gov.au

Standard Condition: E24

E.12 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;
 - (i) Piling;
 - (ii) Piering;
 - (iii) Rock or concrete cutting, boring or drilling;
 - (iv) Rock breaking;
 - (v) Rock sawing;
 - (vi) Jack hammering; or
 - (vii) Machine excavation,

- e) No loading or unloading of material or equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- f) No operation of any equipment associated with the activities listed in part d) above must take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday
- g) No rock excavation being cutting, boring, drilling, breaking, sawing, jack hammering or bulk excavation of rock, must occur without a 15 minute break every hour.

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

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

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

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

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

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

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

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

E.13 Dust Mitigation

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

This generally requires:

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

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

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

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.
Standard Condition: E23

E.14 Placement and use of Skip Bins

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

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

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

E.15 Prohibition of burning

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

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

E.16 Requirement to notify about new evidence

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

Standard Condition: E4

E.17 Critical Stage Inspections

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

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

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

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.
Standard Condition: E5

E.18 Hazardous Materials and Soils

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

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

E.19 Asbestos Removal

Where hazardous material, including bonded or friable asbestos has been identified in accordance with condition B6 above, and such material must be demolished, disturbed and subsequently removed, all such works must comply with the following criteria:

- be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "*Code of Practice for the Safe Removal of Asbestos*",
- No asbestos products may be reused on the site
- No asbestos laden skip or bins shall be left in any public place

Note: This condition is imposed to protect the health and safety of persons working on the site and the public
Standard Condition: E39

E.20 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW DECC *Waste Classification Guidelines, Part1: Classifying Waste* (April 2008).

Note: This condition is imposed to ensure that where hazardous waste will be removed from a site an Asbestos Licensed contractor can definitively determine where the waste may be legally taken for disposal.
Standard Condition: E40

E.21 Disposal of Asbestos and Hazardous Waste

Asbestos and hazardous waste, once classified in accordance with condition E 40 above must only be transported to waste facilities licensed to accept asbestos and appropriate classifications of hazardous waste.

Note: This condition is imposed to ensure that asbestos and other Hazardous waste is disposed of lawfully under the Protection of the Environment Operations Act 1997 and relevant EPA requirements.
Standard Condition: E41

E.22 Asbestos Removal Signage

Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site when asbestos is being removed.

Note: This condition is imposed to ensure awareness of any hazard to the health and safety of persons working on the site and public.
Standard Condition: E42

E.23 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to WorkCover all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

Note: This condition has been imposed to ensure that local residents are informed and have adequate communication facilitated for incidents of asbestos removal.
Standard Condition: E43

E.24 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 other than where varied by this consent. The DCP applies to any tree with a height greater than 5 metres or a diameter spread of branches greater than 3 metres.

General Protection Requirements

- a) There shall be no excavation or work within a Tree Protection Zone (TPZ). The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- b) Excavation must cease where tree roots with a diameter exceeding 30mm are exposed. The *principal contractor* must procure an inspection of the exposed tree roots by an arborist with a minimum AQF Level 5 qualification. Excavation must only recommence with the implementation of the recommendations of the arborist.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the arborist. The arborist is to supply a detailed report to the appointed certifier.

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

E.25 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following tree. The project arborist shall document compliance with the above condition.

Ref No.	Species	Radius from Trunk
32	<i>Ficus macrophylla</i> (Moreton Bay Fig)	5 metres

E.26 Hand excavation within tree root zones

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

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

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

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

Ref No	Species	Location	Radius from Trunk
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3 metres
24	<i>Robinia pseudoacacia</i>	Rear – north eastern corner	5.8 metres
25	Robinia		6.0 metres
26			7.2 metres
28			5.3 metres

E.27 Footings in the vicinity of trees

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

Ref No	Species	Location	Radius from Trunk
21	<i>Cedrus atlantica</i> Atlantic Cedar	Front of Temple Emanuel adjacent to ramp	8.3 metres
24	<i>Robinia pseudoacacia</i>	Rear – north eastern corner	5.8 metres
25	Robinia		6.0 metres
26			7.2 metres
28			5.3 metres

E.28 Site waste minimisation and management – Demolition

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- c) Provide separate collection bins and/or areas for the storage of residual waste
- d) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- e) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- f) Minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

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

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

E.29 Site waste minimisation and management – Construction

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

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly 'signpost' the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation
- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility

- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or WorkCover NSW
Standard Condition: E32

E.30 Construction Access

Construction access is not permitted via Kilminster Lane at any time, except for the proposed fencing occurring immediately on the boundary of the laneway.

E.31 Site Cranes

Site Crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the *principal contractor* or *owner builder* have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the *principal contractor* or *owner builder* must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19

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

F.1 Timed parking signs

The following modified parking signage is to be installed and maintained within the existing assigned drop off/pick up spaces on Wallis Street:

- a) That 'P 15 min, 8:00am – 9:00am, 4:30pm – 5:30pm School Days' restrictions replace 'P 15 min, 8:30am-9:30am, 2:30pm-3:30pm School Days' restrictions on the northern side of Wallis Street within the existing defined signage area in front of 118 Wallis Street

The applicant is to liaise with Council in relation to the installation of the signage. All costs associated with the supply and installation of the signs is to be met by the applicant.

Alterations to the parking restrictions must be completed prior to the operation of the childcare centre.

F.2 Modifications to the Plan of Management

The Plan of Management dated December 2014 is to be modified in the following manner:

- a) Part 1 - All existing information is to be updated to relate to the proposed scenario, including Figure 02
- b) Part 2 – Usage: Reference is required to specify that there are no children under (2) years of age
- c) Part 2 – Usage: The existing and proposed items are to be amalgamated to include the revised hours and weeks of operation as noted in Condition I1
- d) Part 3 – Management Arrangements: One additional ‘stop and drop off’ person is to be stationed during the morning and evening periods as noted in Condition I1 to assist with children walking to the child care centre, crossing Wallis Street if necessary and to ensure that no drivers proceed along Woods Avenue to undertake drop off or pick up (and document evidence if this activity becomes apparent in accordance with Part 11 of the Plan of Management)
- e) Part 5 – Hours of Operation: Outdoor play is to be confined to between 8:30am and 3:30pm daily and limited to a maximum of two hours per child in accordance with Condition I1
- f) Part 6 – Noise Management: This section is to include a Noise Management Plan (in accordance with Condition C22) including all recommendations for noise mitigation measures of the Acoustic Report (Project No 27086-SYD-N, prepared by Wood and Grieve Engineers and dated 2 June 2015) and those noted in Conditions C1, C16-C18 and I1-I5
- g) Part 6 – Noise Management: The following modifications are required to the Noise Management Plan
 - i) Management measures are to be incorporated (not ‘may’)
 - ii) The activity program is to be made available to all parents and given to all residents of all properties with a common boundary to the child care centre
 - iii) The program being made available is to include a contact phone number as specified in dot point three
 - iv) The number of children playing outside is to be limited to 40 at any one time. This does not apply to assemblies not lasting more than 30 minutes and held between the hours of 8:30am and 3:30pm where 60 children are permitted to congregate
 - v) Amplified music is not permitted outside
- h) Part 8 – Traffic: The following additional sentences are required:
 - i) An additional assistant is to be assigned to the intersection of Woods Avenue in accordance with Condition I1
 - ii) The word ‘female’ is to be removed from the third sentence of the second paragraph
 - iii) The words ‘will be used by the majority of’ in the second sentence of the second paragraph is to be replaced with ‘is to be used by all’
 - iv) Woods Avenue is not to be used for the drop off or pick up of children
 - v) Children with disabilities are able to access the site via the driveway in Woods Avenue
 - vi) Drop off of children is not to occur prior to 7:30am
 - vii) Parents or guardians are to sign a statutory declaration at the start of each year acknowledging their obligation not to use Woods Avenue as a drop off or pick up point

- i) Part 10 – Waste Management is to be specified
- j) References to ‘existing’ in all parts are to be deleted
- k) Part 11 is to be added and headed ‘Complaints and Contraventions Register’. It is to include the following:
 - i) All resident complaints are to be registered and dated in a complaints register. Complaints are to be acknowledged and addressed within 24 hours by the manager of the centre.
 - ii) If necessary, the complaints register is to detail every instance when a parent or carer drops off or picks up a child in Woods Avenue. It is to include date and time, car registration, remediation undertaken and be signed by the manager of the centre and the parent or carer
 - iii) The complaints book is to be made available to Council upon request
- l) All other remaining relevant modifications specified in Condition I1

A copy of the revised Plan of Management is to be provided to Council for approval.

F.3 Commissioning and Certification of Systems and Works

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

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

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

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

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

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

Standard Condition: F7

F.4 Transport Management Plan

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

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

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

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

To improve the safety and minimise the impact on residential on-street parking, a detailed *Traffic Management Plan* must be prepared by a suitably qualified traffic engineer to be submitted to Council's Traffic Section to further investigate alternative pick up/drop off arrangements and their feasibilities for implementation Particularly in relation to Woods Road

F.5 Food Premises - Inspection and Registration

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

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

Note: Notification can be done on-line at www.foodnotify.nsw.gov.au

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

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

"100 Notification of conduct of food businesses

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

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

Standard Condition: F15

F.6 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) To commence occupation or use of a *new building*, or
- b) To commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) To commence occupation or use of a partially completed *new building*, or
- b) To commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.7 Street Numbering

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

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

Standard Condition: F11 ff12

F.8 Letter Box(es)

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

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

Standard Condition: F12

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

Nil.

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

H.1 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in compliance with Council's "Specification for Roadworks, Drainage and Miscellaneous Works" dated February

2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a) Stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b) Driveways and vehicular crossings within the *road*;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the *road*;
- e) Relocation of existing power/light pole
- f) relocation/provision of street signs
- g) New or replacement street trees;
- h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- i) New or reinstated kerb and guttering within the *road*; and
- j) New or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.
Standard Condition: H13

H.2 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the *PCA* detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the On-Site Detention system (OSD);
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- f) A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land Titles Office.

Note: The required wording of the Instrument can be downloaded from Council's web site www.woollahra.nsw.gov.au . The PCA must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*. The *Final Occupation Certificate* must not be issued until this condition has been satisfied.
Standard Condition: H20

H.3 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

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

H.4 Electricity Substations – Dedication as road and/or easements for access

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

Standard Condition: G4

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

I.1 Operations, Management and Set up of the Child Care Centre

- a) The centre must achieve full compliance with and be operated in accordance with the requirements of the National Education and Care Services Regulations
- b) The operation of the Child Care Centre is to be undertaken in accordance with the Plan of Management dated June 2015, and as amended by any other condition
- c) The maximum number of children is not to exceed 60. The child care centre is not to comprise any children under the age of (2) years
- d) The hours of use for the child care centre are limited to 7:30am-6pm, Monday to Friday
- e) The maximum period of daily outdoor play is limited to two hours and is to be restricted to between the hours of 8:30am and 3:30pm daily
- f) The total number of children using/playing in the outdoor play area at any one time is restricted to 40. This does not apply to assemblies not lasting more than 30 minutes and held between the hours of 8:30am and 3:30pm where 60 children are permitted to congregate
- g) Not including weekends, there must be a total of 26 documented days each year where the centre is not operating including but not limited to:

- i) Passover, Shavuot, Rosh Hashanah, Yom Kippur, Sukkot and Shemini Atzeret and Simchat
- ii) NSW Public Holidays
- h) A minimum of one staff member must be standing at Wallis Street between 7:30am-9:30am (and not earlier than 7:30am) and 3:30pm-6pm on days when the child care centre is in operation. In addition, a second staff member is to be stationed at the intersection of Woods Avenue and Wallis Street between the hours of 8:00am and 9:00am and 4:30pm and 5:30pm on days when the child care centre is in operation to assist with activities noted in Condition F2
- i) Drop off of children is not to occur prior to 7:30am
- j) Drop off or pick up of children is not to occur in Woods Avenue or via Kilminster Lane
- k) Sanitary facilities must comply with the requirements for class 9b buildings (Early childhood centres) of clause F2.3 of the Building Code of Australia. Table F2.3—9b provides that for every 15 children or part thereof there must be a junior toilet or adult toilet with a firm step and a junior seat one hand basin with a rim height not exceeding 600mm.
- l) A bench type baby bath must be provided on the premises for children aged under 3 years in accordance with Table F2.3-9b of the Building Code of Australia.
- m) No amplification equipment, musical instruments and the like being permitted to be used in outdoor play areas.
- n) The external play activity areas shall be continuously supervised in accordance with the Department of Community Services guidelines and the children encouraged playing and participating in quiet activities to ensure compliance with the required noise criteria.
- o) The childcare centre shall incorporate a system for logging complaints in relation to noise arising from the childcare centre so that such related complaints can be responded to and actioned upon. The complaint logging system shall be kept on the premises and made available when required by Council staff.
- p) The outdoor play area must be adequately shaded in accordance with guidelines published by the New South Wales Cancer Council under the title Shade for Child Care Services.
- q) The Kitchen facilities shall be of a size that provides efficient and safe preparation and service of food for 60 Children
- r) The indoor play area is to include craft preparation areas, including sinks, separate from bathroom and kitchen sinks
- s) The outdoor play area is to be fenced on all sides
- t) A bulky equipment store is to be provided. For ease of access, it is to be located within easy access to the outdoor play space
- u) The premises at 6 Woods Avenue is to be used as office related activities. Classrooms associated with the child care centre are not permitted
- v) Waste collection is to occur via Woods Avenue

I.2 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*. This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Department of Environment and Conservation NSW, Noise Policy Section web page
(www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

Association of Australian Acoustical Consultants—professional society of noise related professionals
(www.aaac.org.au).

Standard Condition: I50

I.3 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the Acoustic Report (Project No 27086-SYD-N, prepared by Wood and Grieve Engineers and dated 02 June 2015). This includes the stain glass windows to the western elevation of the Sanctuary building to the south of the Temple Emanuel as specified to be installed in Condition C1.

Standard Condition: I51

I.4 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the $L_{A90,15}$ minute level measured by a sound level meter.

Mechanical equipment is not to run between the hours of 6am to 12 midnight

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 for Local Government (<http://www.environment.nsw.gov.au/noise/nglg.htm>)

ISBN 1741370671, dated December 2004.

Standard Condition: I53

I.5 Southern Sanctuary Building

The doors to the Sanctuary building to the southern side of the Progressive Synagogue are to be self-closing so that they remain closed during services

Mechanical equipment is not to run outside of the hours of 6am to 12 midnight.

I.6 Compliance with the Transport Management Plan

The management/administrative authority of the synagogue must implement the approved *Transport Management Plan* submitted in accordance with the condition labelled "Transport Management Plan".

I.7 Operation of Regulated Systems

The occupier must operate 'regulated systems' in compliance with *Public Health Act*, 2010 and the *Public Health Regulation*, 2012.

Where there is any change in the regulated system the occupier must register the changes in the 'regulated systems' with Council pursuant to Clause 11 of the *Public Health Regulation*, 2012.

Water cooling system must be certified by an *appropriately qualified* person annually as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected.

This condition has been imposed to ensure public health.

Note: 'Regulated System' has the same mean as in the *Public Health Act* 2010. The *NSW Code of Practice for the Control of Legionnaires' Disease* can be down loaded free from:

http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf.

Standard Condition: I11

I.8 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the *Food Act* 2003, *Food Regulation* 2004; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health.

Note: The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this *Act*, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at www.legislation.nsw.gov.au.

Standard Condition: I30

I.9 Rainwater Tank – Operation and Maintenance

All rainwater tank systems shall be operated and maintained in accordance with the technical provisions of the NSW Code of Practice for Plumbing and Drainage 3rd Edition 2006, AS/NZS 3500 as adopted by the Building Code of Australia, and the NSW Health Guideline "Use of Rainwater Tanks Where a Public Water Supply is Available".

Note: The NSW Health Guideline can be downloaded from http://www.health.nsw.gov.au/policies/gl/2007/pdf/GL2007_009.pdf. The guideline's introduction states: "In urban areas the public water supply remains the most reliable source of good quality drinking water for the community. In these areas NSW Health supports the use of rainwater tanks for non-drinking uses, such as toilet flushing, washing clothes or in water heating systems, and outdoors for uses such as garden

watering, car washing, filling swimming pools, spas and ornamental ponds, and fire fighting. Use of rainwater conserves the public water supply and helps to reduce stormwater impacts. In urban areas NSW Health recommends that people use the public water supply for drinking and cooking because it is filtered, disinfected and generally fluoridated."

Standard Condition: I35

I.10 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety www.woollahra.nsw.gov.au.

Standard Condition: I22

I.11 Commercial Waste Management – Synagogue

The owner and any occupier must comply with the approved *Waste Management Plan*. All waste must be presented for collection in a receptacle. Waste receptacles must be presented no earlier than close of business on day before collection and removed from collection point an hour after open of business on day of collection. Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site. Waste is not to be presented or moved via the access gate to Kilminster Lane.

Note: No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.

Standard Condition: I46

I.12 High Holy Days

The following properties are to be notified of the dates of the High Holy Days at the beginning of each year:

- 1, 3, 5, 11, 13 and 15 Ocean Street
- 3 and 5 Kilminster Lane
- 14 Waimea Lane
- 1-5, 10 and 11-19 Woods Avenue
- 96-108 Wallis Street

J. Miscellaneous Conditions

J.1 Temporary Child Care Centre

The temporary child care centre to the existing office building to the north of the Progressive Synagogue and the outdoor play area to the west of the Progressive Synagogue, as approved as part of DA413/2014, must be undertaken in accordance with the following:

- a) The outdoor play area is to comprise a variety of surfaces, including grass, sand, hard paving and mounding

- b) The number of child care places is limited to a maximum of 54 and must not include children below the age of 2 years
- c) Drop off and pick up of children is not permitted in Kilminster Lane at any time. This gate is to be used for emergency egress only
- d) Waste collection is to occur via Ocean Street only and a compost bin is to be installed and used
- e) Where not modified by (a)-(d) above, the operation must be consistent with The Plan of Management (as modified by Condition F3 and I1) and Education and Care Services National Regulation

The temporary child care centre, as approved in DA413/2012/1-3, is to cease operating no later than two years from the date of commencement of the child care centre or when the approved child care centre associated with DA307/2015/1 commences operation, whichever occurs first.

K. Advising

K.1 Dilapidation Report

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

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the PCA that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

Standard Advising: K23

K.2 Roads Act Application

Works or structures over, on or under public roads or footpaths are subject to Sections 138, 139 and 218 of the *Roads Act* 1993 and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

An "Application to carry out works in a Public Road" form must be completed and lodged, with the Application fee, at Council's Customer Services counter. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached,

submitted to and approved by *Council* under Section 138 of the *Roads Act* 1993, before the issue of any *Construction Certificate*.

Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb & gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by *Council*. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: Any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management, and

Temporary ground anchors may be permitted, in accordance with Council's "*Rock Anchor Policy*".

Services Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au.

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

Note: When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway

crossing grades and stormwater. Changes required under *Road Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.
Standard Advising: K24

K.3 Criminal Offences – Breach of Development Consent & Environmental laws

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

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

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act* 1999, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

Standard Advising: K1

K.4 Dial before you dig



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

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

Standard Advising: K2

K.5 Commonwealth Disability Discrimination Act 1992 (“DDA”)

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council’s Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>
- b) http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html

If you have any further questions relating to the application of the DDA you can send an email to HEROC at disabdis@humanrights.gov.au.

Standard Advising: K3

K.6 NSW Police Service and Road Closures

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

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

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

Standard Advising: K4

K.7 Builders Licences and Owner Builders Permits

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

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

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

Standard Condition: K5

K.8 Building Standards - Guide to Standards and Tolerances

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6

K.9 Workcover requirements

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

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

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

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

Standard Condition: K7

K.10 Asbestos Removal, Repair or Disturbance

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

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

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

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

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

Standard Advising: K8

K.11 Lead Paint

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

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

Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9

K.12 Dividing Fences

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

Note: Further information can be obtained from the NSW Department of Lands - <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

Standard Advising: K10

K.13 Release of Security

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

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have

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

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

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

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

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

K.14 Recycling of Demolition and Building Material

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

Standard Condition: K17

K.15 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19

ANNEXURES

1. Plans and elevations
2. Development Engineer referral
3. Traffic Engineer referral
4. Urban Designer referral
5. Landscape Officer referral
6. Heritage Officer referral
7. Environmental Health Officer referral
8. Fire Safety Officer referral
9. Community Services referral

REFERRAL RESPONSE – TECHNICAL SERVICES

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
PROPOSAL Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM Nick Tomkins
TO Simon Taylor

ISSUES

The proposal is unsatisfactory due to the impact on traffic demand and vehicle access to the site

DOCUMENTATION

- Statement of Environmental Effects by Lockrey Planning and Development solutions
- Survey John Paul Mittelheuser: surveyor's reference 109323501 date 12.12.2012
- Architectural Plans prepared by Architectus Brisbane P/L Dwg No. SD-A010C, SD- A100L, SD-A101I, SD-A300I, SD-A301F, SD-A320I, SD-A321E, SD-A330C, SD-A331C, SD-A332A, SD-A333A,
- Stormwater Disposal Concept Plan prepared by Wood & Grieve Engineers Rev 1 dated 25 May 2015 Fig 1 to 7 Rev B dated 25/05/15
- Geotechnical Report prepared by Douglas Partners Project: 45892.01 Dated December 2014.
- Transport Assessment prepared by ARUP dated 5 June 2015.
- Memo from Council's Traffic Engineer dated 11 September 2015

3. ASSESSMENT

A. Site Drainage comments

There are generally no objections to the Stormwater Disposal Concept Plan prepared by Wood & Grieve Engineers Rev 1 dated 25 May 2015 Fig 1 to 7 Rev B dated 25/05/15 subject to the following amendments:

1. Stormwater is to be piped to a new Council specification Gully Pit in the kerb in Ocean Street
2. Construction of a standard gully pit in the kerb fronting the subject site on Ocean Street in accordance with Council's Standard "Grated Gully Pit with extended Kerb Inlet" drawing DR1.
3. Construction of approximately 15.0m of 375mm RCP in-ground drainage line across Ocean Street. The line must connect from the new pit on the eastern side of Ocean Street to the existing Council pit located on the western side of Ocean Street on the northern corner of John Street.
4. These works will require the submission of a S138 Roads Act application for approval be Council including a full engineering drawing.

The concept plan is subject to the submission and approval of Stormwater Management Plan for the site prior to release of the Construction Certificate. Details are to be in accordance with Chapter E2

“Stormwater and Flood Risk Management” DCP. This is to ensure that site stormwater is disposed in a controlled and sustainable manner - Conditions applied.

B. Construction Management comments

As a result of the site constraints, limited space and access a Construction Management Plan is to be submitted to Council prior to issue of the Construction Certificate. Due to the lack of on-street parking availability a Work Zone will be required from Council during construction and is conditioned accordingly

C. Impacts on Council Infrastructure comments

Woods Avenue – the existing crossing is steep, in poor condition and does not comply with Council’s current specifications and is to be replaced.

Ocean Street

- To improve entry and access to the site and allow for 2 way vehicular movement the existing crossing on Ocean Street is to be replaced with a width of 6m including new layback and gutter in accordance with Council’s standard drawing RF2.
- Removal of all driveway crossings and kerb laybacks in Ocean St to the south of the site which will be no longer required.
- The existing footpath is in poor condition with substantial damage, displacement of cracks and joints and age this is to be removed and replaced for the full width of the property
- The discharge of the proposed significant amount to the street gutter is not acceptable as it result in lengthy flows of water which is likely to damage road pavement and be nuisance in gutter. On this basis the water is to be piped underground across Ocean Street to the existing drainage system to Council’s Specifications

F. Geotechnical, Hydrogeological and/or Structural comments

A Geotechnical Report by Douglas Partners Project: 45892.01 Dated December 2014 submitted in support of the application does not appear to fully address the current proposal but is referencing a previous one with underground parking However there is sufficient geotechnical infestations in the report to make an assessment and apply conditions

The current proposal involves excavation for underground carpark to a depth of about 3.5m. (scaled from architectural plans). The report identified that the subsurface conditions as:

- a) Fill to various depths ranging from 1.6m
- b) Sand /silt various densities and depths from 1m to 4.1
- c) Sandstone bed rock at various depths
- d) Groundwater was located at various depths and in the carpark area depths in BH5 were at 3.9m (RL 68.7m AHD) which is below RL70.70 of the floor of the underground carpark .

The report made comments and recommendations on excavation/support, vibration, batters and shoring and retaining walls, footings and slabs. Conditions covering these matters as well as others identified by Council can be conditioned.

Council’s Technical Services has no objection to the proposed excavation on technical grounds. Notwithstanding this, Council’s Planning Officer is also to undertake an assessment of the proposed excavation against the relevant excavation objectives and controls prescribed under the LEP and RDCP.

G. Other matters

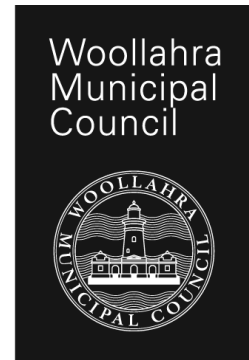
Due to the likelihood of additional power usage as a result of the new development, Energy Australia has requested that the applicant contact them with regards to the possible provision of a new Electricity Substation on site.

RECOMMENDATION

Council's Traffic Engineer has determined that the proposal is not satisfactory in its current state due to unsatisfactory impact on parking demand and site vehicle access (see comment at Annexure 3).

REFERRAL RESPONSE – TRAFFIC

Date 11 September, 2015
File No. DA 307/2015/1
To Mr S Taylor
CC Mr Nick Tomkins
From Ms Qian Liu
Address **7-9 OCEAN STREET WOOLLAHRA 2025**



ABN 32 218 483 245

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Traffic Engineering has reviewed:

1. Transport Assessment by Arup dated 5 June 2015;
2. Plan of Management – Child Care rev June 2015;
3. Architectural Drawings by Lippmann Associates.

Proposal

Demolition of the Neuweg Chapel, administration building to the north of the Emanuel Synagogue, the child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles with new vehicular entry and forecourt; a new two storey building to the north of the Emanuel Synagogue containing archives/meeting room, small sanctuary for approximately 30 people, learning centre, new lift and walkways and a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and associated playground area, staff area, amenities, new lift and walkway and mid-size sanctuary for approximately 300 people and art gallery on the first floor level. The proposal also involves landscaping, new fences, ancillary structures and siteworks

The proposal mainly involves the following:

- The demolition of an existing building at the front of the property fronting Ocean Street and the construction of a new forecourt.
- Construction of a new Mid-size Synagogue in the southern corner of the Main Sanctuary site, which can accommodate approximately 700 persons on High Holy Days (up from the current 450 at the NCJW Council House)
- Construction of a new ground floor Child Care Centre and associated playground for 60 children beneath the new Mid-size Synagogue in the southern corner of the Main Sanctuary site.
- Demolition of the existing administration building to allow construction of a new education facility and Renewal Prayer space

- Various landscaping, fencing and refurbishment works around the site
- Construction of a basement car park with a driveway access to Ocean Street

COMMENTS

Parking Provision

It is understood that the current plan will increase the capacity of the Synagogue for an additional 180 congregants whilst proposes no change to the capacity of the child care. It was identified by Council's previous assessment on DA 355/2009 for a similar scale of development that the parking provision did not comply with Council's Parking DCP 2011 requirement. Although Parking DCP 2011 was repealed by Woollahra DCP 2015 Chapter E1 parking since 23 May 2015, the minimum parking rates for the proposed land use as public worship and childcare have not changed. It is clearly that the current proposal still results in a significant shortfall of off-street parking provision.

The proposal has increased the original on-site capacity by one car space. This is relatively minor in comparison to the parking shortfall resulting from the proposal. It is noted that both the childcare centre and synagogue heavily rely upon on street parking to service its parking requirements. As the area is already subject to a high level of parking demand, a continuation of this is unsatisfactory and therefore, Council's Traffic Section does not support the proposed development application.

Traffic Generation

For the proposed childcare facility, the current proposal seeks no expansion of the existing 60 space child care centre. As such, the applicant has concluded no increase in traffic generation will attribute to the childcare. It is agreed that the current level of traffic associated with the childcare centre is unlikely to change.

For Synagogue, it was noted that the proposal will result in an additional 180 congregants on site which represents an additional 72 vehicles based on the parking surveys during busy periods. The applicant has stated that the post-development congregant numbers will not differ significantly from its current levels (except during the High Holy Day periods) and therefore the present traffic condition will remain unaltered in the surrounding area.

For the High Holy Day periods, the applicant has indicated the Synagogue is committed to providing a shuttle bus to mitigate the additional parking demand generated. It was revealed by the traffic survey that a high proportion of congregants live within the Municipality and therefore this is a viable option that would ease the parking pressure to some extent.

Transport Management Plan

To minimise the impact upon on street parking during peak operating periods of the Synagogue (High Holy Days), a detailed *Transport Management Plan* must be prepared and submitted to Council's Engineering Services for approval. The plan is a control document which is to be implemented in the ongoing use of the synagogue.

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

- Shuttle bus route and service stops.
- Bus capacity.

- Operating times and dates/ periods.

Pick up/Drop off – Childcare Facility

Council's Traffic section notes that the proposed development of the childcare centre does not satisfy the objectives of Woollahra DCP 2015 Chapter F Land Use Specific Controls in relation to the pickup/ dropoff arrangement. The applicant has indicated the current set down/ pickup operations involve parents dropping children off to carers on the corner of Woods Avenue and Wallis Street but acknowledged safety hazards associated with the current arrangement. It is understood the child care centre has attempted to discourage parents from entering Woods Avenue as this generates noticeable congestion due to the lack of an efficient turning area in this short lane.

To improve the safety and minimise the impact on residential on-street parking, a detailed *Traffic Management Plan* must be prepared by a suitably qualified traffic engineer to be submitted to Council's Traffic Section to further investigate alternative pick up/drop off arrangements and their feasibilities for implementation.

Parking Layout

Dimensions of the proposed car park containing 14 spaces have not been provided and as such, detailed assessment on the parking layout cannot be carried out. The applicant shall ensure that all aspects of the carpark comply with *AS/NZS 2890.1*.

In particular, pedestrian splays shall be provided adjacent to the driveway at the property boundary to ensure safety in accordance with *AS/NZS 2890.1 Clause 3.2.4*. The driveway including both access driveway and the straight ramp shall be widened to permit the passage of two opposing vehicles. A driveway such as that proposed would increase the potential for traffic flows to be impacted on Ocean Street and for the general safety of this vehicular access point and the adjacent roadway to be reduced, as the existence of a vehicle stopped on the driveway, waiting to exit the site, would prevent vehicles from attempting to enter the property. *AS/NZS 2890.1:2004 Clause 3.4* requires a queuing area be provided between the vehicular control point and the property boundary to allow a free influx of traffic which will not adversely affect traffic or pedestrian flows in the frontage road. Such queuing area has not been provided by the proposal.

Construction Management Plan (CMP)

The developer shall submit a CMP together with a completed Construction Management Plan Application form and pay all relevant application fees. The submitted CMP must be approved by Council's Traffic Engineer prior to the issue of a Construction Certificate.

Recommendations

The applicant argues that the proposal maintains the status quo with respect to the parking demands and traffic generation of the facility and therefore does not adversely affect the current traffic conditions.

Whilst this is agreed to, it is poor that the development retains the heavy reliance upon the on street parking conditions around the site to service its needs when the area is already subject to a high level of parking demand. For this reason, Council's Traffic Section does not support the proposed development application.

Should this development be approved, it is recommended that the following conditions of consent be imposed on the development.

1. The applicant be required to submit a CMP together with a completed Construction Management Plan Application form and pay all relevant application fees. The submitted CMP must be approved by Council's Traffic Engineer prior to the issue of a Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.
2. That all aspects of the carpark comply with *AS/NZS 2890.1*. Details shall be referred to the relevant comments.
3. To minimise the impact upon on street parking during peak operating periods of the Synagogue (High Holy Days), a detailed *Transport Management Plan* must be prepared and submitted to Council's Engineering Services for approval. The management/ administrative authority of the synagogue must implement the approved *Transport Management Plan* submitted.
4. To improve the safety and minimise the impact on residential on-street parking, a detailed *Traffic Management Plan* must be prepared by a suitably qualified traffic engineer to be submitted to Council's Traffic Section to further investigate alternative pick up/drop off arrangements and their feasibilities for implementation.

REFERRAL RESPONSE – URBAN DESIGN

FILE NO	DA 307/2015/1
ADDRESS	7-9 Ocean Street Woollahra
PROPOSAL	Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM	Tom Jones, Urban Design
TO	Mr S Taylor

Information

- Architectural drawings: Lippman/Architectus SD-A010C, SD- A100L, SD-A101I, SD-A300I, SD-A301F, SD-A320I, SD-A321E, SD-A330C, SD-A331C, SD-A332A, SD-A333A,
- Statement of Environmental Effects: Lockrey Planning and Development solutions
- Survey: John Paul Mittelheuser: surveyor's reference 109323501 date 12.12.2012

Background

This site has been the subject of previous development applications and section 96s.

Context

The east end of John Street terminates in a view of the Synagogue. Ocean Street streetscape opens up onto the courtyard of the Synagogue. The Emanuel Synagogue and its settings are a significant part of Woollahra public realm.

The proposed development also has small secondary frontages to Kilminster Lane and Woods Avenue. The impact of the proposed development on both the secondary frontages is minimal when viewed from the public domain.

Urban Design Review

The redesign allows the public to see the Emanuel Synagogue from Street, which means the building retains its relationship to the public realm and its streetscape significance.

The level of the forecourt has been raised to accommodate covered car parking and provide an amount of physical separation, while still retaining the visual connection to the street. This is a neat and appropriate solution to the street frontage of the proposal.

Recommendation

Approval

REFERRAL RESPONSE – TREES AND LANDSCAPING

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
PROPOSAL Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM David Grey – Tree and Landscape Officer
TO Simon Taylor

DOCUMENTS

- Statement of Environmental Effects, prepared by Lockrey Planning, dated 9 June 2015
- Survey Plan No.109323501, drafted by John Paul Mittelheuser, dated 12 December 2012
- Architectural Drawing No.SD-A010, SD-A100, SD-A101, SD-A300, SD-A301, SD-A320, SD-A321, drawn by Architectus, dated 5 June 2015
- Tree Protection Plan & Specifications, prepared by Earthscape Horticultural Services, dated November 2012
- Tree Removal and Retention Plan, drawing T12-11284, prepared by Earthscape Horticultural Services, dated 18 March 2014
- Landscape Plan No.101 to 111, designed by Arcadia, dated June 2015

Supplied materials reviewed 19 October 2015

The comments and recommendations within this Referral Response have taken into consideration the guidelines established within Australian Standard AS 4373 – Pruning of amenity trees and Australian Standard AS 4970 – Protection of trees on development sites

SUMMARY

Significant tree on the site a Moreton Bay Fig tree is priority for protection

COMMENTS

The reference material supplied with this proposal includes an Arborists report which is not completely contemporary with other materials, principally the Landscape Plan. The most important landscape element on this site is the Moreton Bay Fig tree (Tree 32) standing at the eastern extremity of the site, adjacent to the Woods Avenue entry gate. Proposed development of the area around this tree is at variance between the Arborists report of 2012 and the Landscape Plan of 2015.

The more recent Landscape Plan indicates the construction of a ‘Timber Adventure Playfort’ around the base of Tree 32. This aspect of the proposal has not been considered by the Arborist. I have recommended that a modified landscape plan is to be supplied before the issue of a Construction Certificate. This modified Landscape Plan is to show the deletion of the proposed Timber Adventure Playfort and the conversion of existing hard surfaces adjacent to the base of the tree to garden beds at the existing levels.

The tree protection measures recommended by the reporting arborists Tree Protection Plan and Specification are of a high standard and if adhered to would ensure correct management of trees on the site. I have recommended that this protection plan form part of any approved development application.

RECOMMENDATIONS

Council's Tree and Landscape Officer has determined that the development proposal is satisfactory in terms of tree preservation and landscaping, subject to compliance with the conditions of consent.

REFERRAL RESPONSE - HERITAGE

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
PROPOSAL Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM Paul Fletcher - Heritage Officer
TO Mr Simon Taylor

ISSUES

- The retention and reuse of the windows of the Neuweg Synagogue.
- Height of boundary fences.

DOCUMENTATION

- Drawing set by Architectus, dated 5 June 2015 and numbered SD-A101B, SD-A100K, SD-A101H, SD-A300H, SD-A301E, SD-A320H, SD-A321D
- Heritage Impact Statement by Weir Phillips, dated June 2015
- Statement of Environmental Effects by Lockrey Planning and Development Solutions, dated 9 June 2015
- Survey plan by Hard & Forester reference 109323001, Revision 12, dated 2 September 2014

SITE INSPECTION/RESEARCH

- The site was previously inspected on 9 November 2012, including the interior and the locality
- Review of the following documents and photographic evidence:
 - Council's property system, to establish dates of earlier building and development applications for the subject and surrounding properties
 - Council's photography files relevant to the immediate area
 - Council's heritage inventory sheets
 - Council's aerial photography and mapping database

HERITAGE FRAMEWORK

- The subject site (Emanuel Synagogue – synagogue complex of buildings, interiors and grounds, including Moreton Bay Fig) is a heritage item in the LEP but is not listed on the State Heritage Register. The Note to Clause 2.7, Schedule of contributory items, of the DCP states, in part: "Heritage items as identified in Schedule 5 of Woollahra LEP 2014 are also contributory items."
- The subject site is in the Nelson precinct of the Woollahra Heritage Conservation Area
- The subject site is in the vicinity of a number of heritage items, namely the five other Victorian terrace houses, interiors and front fences (1-5) on the south-western side of Woods Avenue, Woollahra; and the Norfolk Island Pine at 10 Woods Avenue

SIGNIFICANCE OF SUBJECT PROPERTY TO THE CONSERVATION AREA

Emanuel Synagogue is of high historical significance as the first of only two Liberal Synagogues established in Sydney, and as such, demonstrates the development of Liberal Judaism in Australia manifesting during major global events occurring in Europe. Liberal Judaism was relatively new in Australia in 1941, having been introduced by some of the growing number of European Jewish refugees. This in itself was a new phenomenon – until the 1930s, European Jews represented only a small percentage of Australian Jewry. The Emanuel Synagogue was the second liberal congregation to be established in Australia, following the lead of the Temple Beth Israel in Melbourne established in 1931.

The Synagogue was constructed in 1941, during WWII and as such demonstrates a strong determination within the Jewish community during a period when materials, supply and labour were constrained. It also indicates a strong affirmation of Jewish faith and identity at a time when the European Jewry was facing intense persecution. The site has continuously been used for Jewish worship and to service the Jewish community in the eastern suburbs since 1941.

The Synagogue, designed by Samuel Lipson, is of high cultural significance as an outstanding example of his work in the Inter-War Functionalist style of architecture. The choice of the Functionalist style is significant in itself and reflects not only the work of Lipson at the time, and the European influences then acting on his architecture, but also the fact that it was designed for a progressive, forward-thinking congregation, many of whom had close ties to Europe, where this style was already being used for Synagogue architecture.

Emanuel Synagogue is also associated with a number of mid-twentieth century Sydney Jewish community members who were instrumental in the establishment of the synagogue, including Cecil Lubet, Gordon Kessing and Rabbi Schenk, among others.

Emanuel Synagogue is of high aesthetic significance as a distinguished work of architecture, characterised by its formality, dignity, classical influences and pleasing proportions. The composition of the forecourt entry to the site is a successful public space and creates a sense of occasion. Emanuel Synagogue is part of a cohesive group of Inter-War buildings in the vicinity.

Emanuel Synagogue is of high social significance for its association with the Liberal Jewish congregation and because it has continuously served as a place of worship and instruction since 1941.

The Neuweg Synagogue, designed by Aaron Bolot, who was a member of the Emanuel Synagogue congregation, is of cultural significance as an accomplished example of his work. In 2010 a development application was approved (DA 09/355) which includes demolition of the Neuweg Synagogue, partial demolition of no. 6 Woods Avenue, demolition of other minor buildings and previous additions on the site, a new Conservative Synagogue, new basement carpark, new buildings and new blast walls. The stained glass windows from the Neuweg Synagogue were to be retained. The approval has lapsed.

In 1966, an Administration wing was added to the northern side of the Temple Emanuel. The two-storey building was designed by Aaron Bolot, a member of the congregation. While the Administration Building is not mentioned in the Statement of Significance, the following description of the Administration Building is contained in the “Physical Description” section of Council’s Heritage Inventory Sheet for the Emanuel Synagogue:

“... an extension to the 1941 Synagogue building, designed by Bolot and constructed in 1961 to accommodate administration, offices and meeting rooms. This facility is now inadequate for the needs of the Synagogue. The administration building was an expedient and less sympathetic addition to the 1941 Synagogue and is not architecturally significant.”

The Temple Emanuel Synagogue Complex also contains a semi-detached Victorian villa (6 Woods Avenue) and an established Moreton Bay Fig tree, both listed as heritage items in Schedule 3 of the LEP. The Moreton Bay Fig is more closely associated with the Woods Avenue terraces and the visual character of this streetscape rather than the Temple Emanuel environment. The Fig was probably originally part of the “*Waimea Estate*” prior to subdivision and is likely associated with the Norfolk Island Pine located in the rear of the adjoining Mews development.

The Fig is now a remnant of the original large gardens and is now hemmed in on all sides by residential developments, which significantly reduce the visual impact of this massive tree. Nevertheless, this very old Moreton Bay Fig is a distinctive historic element and an integral component of the Woollahra Landscape and, therefore, is considered significant.

SIGNIFICANCE OF ITEMS IN THE VICINITY

The Norfolk Island Pine at 10 Woods Avenue, Woollahra was originally part of the gardens of the circa 1858 “*Waimea House*”, and was likely associated with the neighbouring Moreton Bay Fig, now in the grounds of the Temple Emanuel. Both trees are now physically isolated elements due to subdivision and the degree of development around them continues to threaten the existence of these historically important trees.

This pine is an important visual component of the “*Brougham*” grouping of Norfolk Island Pines near the Bondi Junction by-pass. This is a particularly prominent group, of special visual significance at the local and district levels, as well as from the harbour. Of particular note, these pines are highly significant when viewed from the eastern by-pass approaches and, at sunset, their silhouettes are outstanding features of this landscape and ridgeline. Furthermore, the Norfolk Island Pine is an integral component of the early cultural planting of Woollahra and, as such, forms part of the larger visual and historic character of this suburb.

The terrace of six single-storey brick houses at 1-6 Woods Avenue, Woollahra was designed in the Victorian Gothic Revival style and was built circa 1900. The two central buildings have small verandahs and French windows, whilst the remainder have bay window fronts. Originally with slate roofs and face brickwork, they have intricate scalloped barge boards, artificial stone quoins and cast iron valances to entrance porticoes. Small front gardens are enclosed by pike and rail front fences and decorative brick side fences.

The proposal will not affect any significant views to or from the heritage items in the vicinity of the subject site and will not overshadow the items. The proposal will not have any effect on the heritage significance of the items in the vicinity or their settings.

ASSESSMENT OF HERITAGE IMPACT

Woollahra Local Environmental Plan 2014

- Clause 5.10 (1)(a): The development does conserve the environmental heritage of Woollahra
- Clause 5.10 (1)(b): The development does conserve the heritage significance of the heritage item and the Woollahra Heritage Conservation Area, including associated fabric, settings and views

- Clause 5.10 (4): This referral constitutes an assessment under this Clause. The effect of the proposed development on the heritage significance of the heritage item and the heritage conservation area will be neutral

Woollahra Development Control Plan 2015

The proposal has been assessed against the Objectives and Controls of each relevant heritage related clause of Chapter C2, Woollahra Heritage Conservation Area, of the DCP. With the exception of the following, the proposal satisfies the heritage provisions of the DCP.

C2.2.5: Desired future character of the Woollahra HCA.

- Desired future character objectives: O1 and O2.

The text that is included prior to the Desired future character objectives states, in part:

“Even small changes to buildings in the Woollahra HCA require careful consideration, especially where changes are visible from the street or from other public spaces. It is not just change to the street front elevations of buildings that is important. Alterations and additions at the rear of properties are also often visible from the public domain and can alter the proportion, scale and cohesion of a group of buildings.”

Desired future character objective O1 seeks to retain its (the HCA’s) heritage significance and its recognition as a rare and distinctive urban area. Desired future character objective O2 seeks to retain and promote evidence of the historical development of the Woollahra HCA and its individual precincts and enables the interpretation of that historical development.

It is considered that the demolition of the Neuweg Synagogue, the building closest to Ocean Street, requires careful consideration; its absence when the subject site is viewed from Ocean Street will be obvious. No effort to provide a link to the part played by the Neuweg Synagogue appears to have been made. Development Application DA 09/355 included the retention and reuse of the windows from the Bolot-designed Synagogue. It is considered that this remembrance should form part of the present Development Application.

C 2.3.4: Nelson precinct

The last in a list of nine significant characteristics of the Nelson Precinct states:

“Contributory items including...Temple Emanuel, set back from Ocean Street behind a leafy forecourt. A landmark Inter-War brick building, it is decorated with symbolic patterns and a cast stone panel with religious motifs in low relief on the front elevation. The adjacent Neuweg Chapel has details influenced by the original synagogue.”

C2.4.10: Places of public worship, educational establishments and public buildings

- Objective: O1
- Control: C1

Objective O1 seeks to ensure that any new work is carried out with due regard to the significance of the building and its setting. Control C1 may require a conservation management plan to be prepared and adopted by Council prior to work being undertaken to a significant religious, institutional or public building. A *(Draft) Conservation Management Plan for the Emanuel Synagogue*, the CMP, was prepared by Weir Phillips and received by Council in June 2009.

Figure 122 of the CMP shows the Neuweg Synagogue as having moderate significance. Clause 6.2.1.3 of the CMP suggests that the building should be recorded if major works are proposed. It also suggests that significant fabric should be removed and incorporated into a new scheme. In the previously-approved Development Application, DA 09/355, the windows of the Neuweg Synagogue were to be retained for reuse. No such suggestion is included in the present Development Application. It is considered that their retention and reuse could be appropriate.

Figure 122 of the CMP shows the Administration Building as having neutral significance. Clause 6.2.1.4 of the CMP advises that the building has low to moderate significance and that should demolition be proposed, archival recording is the only requirement for the retention of heritage significance.

Figure 122 of the CMP shows the Childcare Centre as having neutral significance. Clause 6.2.1.5 of the CMP advises that the building has low to moderate significance and that should demolition be proposed, archival recording is the only requirement for the retention of heritage significance.

Figure 122 shows the additions to the south of the Temple Emanuel as being an intrusive element. Archival recording is not required prior to demolition.

C2.5.7: Fences, gates and retaining walls

- Objective: O1
- Control: C4

Objective O1 seeks to ensure the removal, and prevent the construction, of non-original, intrusive tall masonry fences on street alignments. Control C4 restricts the height of a side or rear fence to 1.8 metres. Where there is a difference in level from one side of the boundary to the other, the 1.8m limit is measured from the low side. Where there is a difference in ground levels at the boundary greater than 1.2m, the height of the fence must not exceed 1.2m measured from the high side.

Apart from the 1.8 metre-high fence to the rear boundary of the adjoining properties fronting Ocean Street, all other proposed new fences exceed the Control. The fences are not shown on the drawings and the materials proposed to be used are not identified. The reference to a 2.1 metre-high fence incorporating a 1.8 metre-high acoustic barrier does not indicate if the total height is 2.1 metres – with the acoustic barrier placed in front of or behind the 2.1 metre-high fence – or if the acoustic barrier is to be placed above the 2.1 metre-high fence, giving a total height of 3.9 metres. In order to comply with the Control, the height of all fences must be reduced to a maximum of 1.8 metres.

CONCLUSION

The application is generally acceptable as it complies with most of the relevant statutory and policy documents and would have a satisfactory impact. In order to be acceptable, the application requires minor amendment.

RECOMMENDATION

Consent, subject to the following conditions:

1. In order to comply with Objective O2 of Clause 2.2.5 of the DCP, retain and reuse the windows from the Bolot-designed Synagogue
2. In order to comply with Control C4 of Clause 2.5.7 of the DCP, the height of all fences must be reduced to a maximum of 1.8m

REFERRAL RESPONSE - ENVIRONMENTAL HEALTH

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
PROPOSAL Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM Graeme Reilly Environmental Health Officer
TO Mr Simon Taylor

ISSUES

Noise and kitchen in child care facility

DOCUMENTATION

- Statement of Environment Effects, referenced Emanuel Synagogue Redevelopment, prepared by Lockrey Planning & Development Solutions, dated 09 June 2015
- Architectural Plans, referenced SD-A010, A100, A101 , prepared by Architectus , dated 05/06/15
- Acoustic Report, referenced Project No 27086-SYD-N, prepared by Wood and Grieve Engineers , dated 02 June 2015
- Plan of Management, referenced Child Care, prepared by Emanuel Synagogue, dated June 2015

RESEARCH

A site inspection was carried out on the following date: Previously inspected

ASSESSMENT

- Children playing outdoors during certain times of day
- Vehicle movements associated with operational activities on site
- Mechanical Plant Noise
- Synagogue proceedings

Mechanical Plant Noise Criteria – all residential receivers

Daytime: 7am-6pm: (43d(BA))
Evening: 6pm-10pm: (41d(BA))
Night: 10pm-7am: (32d(BA))

External Noise Level AAAC Guidelines – Outdoor Play Area

Up to 2 hours (total) per day- the Leq,15 min noise level emitted from the outdoor play area shall not exceed the background noise level by more than 10 dB at the assessment location.

More than 2 hours per day – the Leq,15min noise level from the outdoor play area shall not exceed the background noise level by more than 5 dB at the assessment location.

Noise Mitigation Measures

Noise from Children

In order to control the noise from the children playing outdoor, a 1.8m high noise barrier located within the boundary of the site is required.

RECOMMENDATION

Council's Environmental Health Officer has determined that the proposal is satisfactory, subject to conditions.

REFERRAL RESPONSE – FIRE SAFETY

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
PROPOSAL Demolition of the Neuweg Chapel, administration building, child care centre to the south of Emanuel Synagogue and other associated structures (excluding 6 Woods Avenue) and the construction of a new basement carpark for 14 vehicles; a new two storey building to the north of the Emanuel Synagogue, a new two storey building to the south of the Emanuel Synagogue containing a 60 space childcare centre and a sanctuary for approximately 300 people with art gallery
FROM Richard Smith - Fire Safety Officer
TO Mr Simon Taylor

ISSUES

- Openings are within three (3) metres of the boundary
- Fire hydrants are not on the essential services schedule within Council and yet the floor area of the building is over 500m²

DOCUMENTATION

- Statement of Environment Effects, referenced Emanuel Synagogue Redevelopment prepared by Lockrey Planning & Development Solutions Pty Ltd, dated 9 June 2015
- Architectural Plans, referenced SD-A010, SD-A100, SD-A101, SD-A300, SD-A301, SD-A320 & SD-A321, prepared by architectus, dated 5 June 2015
- Fire Safety Report, referenced BCA compliance audit report, prepared by mckenzie group, dated 21 November 2014

RESEARCH

A site inspection was carried out on 6 July 2015.

LEGISLATION

A Building Code of Australia (BCA) assessment of this development application is required to satisfy the following statutory provisions of the *Environmental Planning & Assessment Regulation 2000*.

- ☒ Clause 94 – ‘Consent authority may require buildings to be upgraded’
- Compliance with the BCA if more than 50% of the volume has been changed in the last 3 years
 - Fire safety – to protect persons using the building and facilitate their egress from the building as well as restricting the spread of fire from the building to other buildings

BUILDING DESCRIPTION

Type of Construction: B
Class: 9b & 7a
Number of Storeys: 2
Rise in Storeys: 2
Effective Height: <12m

ASSESSMENT

Comments have been prepared on the following clauses of BCA:

- Exit distances Clause D1.4 of the BCA
- Dimensions of exits Clause D1.6 of the BCA
- Openings within three (3) metres of the boundary Clause C3.2 of the BCA
- Swing of door Clause D2.20 of the BCA
- Single hand action door handle Clause D2.21 of the BCA
- Exit discharge Clause D1.10 of the BCA
- Emergency lighting Clause E4.2 of the BCA
- Exit & directional signage Clauses E4.5, E4.6 and E4.8 of the BCA
- Portable fire extinguishers Clause E1.6 of the BCA
- Fire hydrants Clause E1.3 of the BCA

RECOMMENDATION

Council's Fire Safety Officer has determined that the proposal is satisfactory, subject to the following condition:

A.1 Building upgrade (Clause 94 of the Regulation)

Council considers pursuant to clause 94 of the *Regulation* that it is appropriate to require the existing building to be brought into total or partial conformity with the *BCA*.

The *Construction Certificate* plans and specification required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

- i) That travel to exits shall comply with the requirements of Clauses D1.4 & D1.6 of the *BCA* or an alternative solution shall be proposed by an accredited C10 fire engineer meeting performance requirements DP2, DP4, DP6 & EP2.2 of the *BCA*.
- j) That the exit doors shall swing in the direction of egress complying with the requirements of D2.20 of the *BCA*. The doors shall be operable by single handed downward action or pushing action in accordance with the requirements of D2.21 of the *BCA* and shall not encroach the street alignment.
- k) That the discharge from the exits shall comply with the requirements of Clause D1.10 of the *BCA*.
- l) That openings within three (3) metres of the boundary shall be protected in accordance with the requirements of Clause C3.4 of the *BCA* or an alternative solution shall be proposed by a C10 accredited fire engineer meeting performance requirements CP3, CP4 & CP8 of the *BCA*.
- m) That a system of emergency lighting shall be installed throughout the building to provide sufficient light in an emergency in accordance with the requirements of Part E4 of the *BCA*.

- n) That exit signs shall be installed above all required exit doors. Signs shall be illuminated at all times and generally be of sufficient number that direction of travel to all exits is clearly visible from any part of the major egress routes. Exit signs shall be installed to the standard expressed in Clauses E4.5, E4.6 and E4.8 of the BCA.
- o) That portable fire extinguishers shall be provided throughout the building to the requirements of Clause E1.6 of the BCA and the relevant requirements of AS 2444.
- p) That hydrants shall be installed throughout the building in accordance with the requirements of Clause E1.3 of the BCA, or if street hydrants are intended to be used instead of required internal hydrants a certificate shall be provided to Principal Certifying Authority certifying that the location and coverage comply with AS 2419.1 – 2005 and the flows and pressures (evidenced by a Water Authority enquiry form) comply with AS 2419.1 – 2005.

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

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

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

Standard Condition: C10

REFERRAL RESPONSE – COMMUNITY SERVICES

FILE NO DA 307/2015/1
ADDRESS 7-9 Ocean Street Woollahra
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FROM Sharon Campisi - Manager Community Development
TO Mr Simon Taylor

Proposal

A 60 place child care centre catering for children aged 3-5 years.

Demand for child care

In June 2014, Council considered the Woollahra Child Care needs Study which provided an assessment of the supply of and demand for child care across the Woollahra Local Government Area. A summary of the key findings is outlined below.

- Residents of the Woollahra LGA have shown a preference for both access to long day care and for 2 years of preschool attendance from the age of 3 years (four preschools in the LGA prioritise 4 year olds). They have also identified a preference for quality services and are aware of the difference in service types.
- 74% of all children in the Woollahra LGA need access to some form of centre-based care for approximately three days per week. Using this formula, a benchmark of 0.44 education and care places is required per child to meet demand.
- Using this benchmark, there is a current gap (April 2014) of 361 places and a forecast gap (2021) of 653 places, assuming no additional supply.
- However, it is expected that much of this gap can be met through the private provision of new centres. If all places with current Development Approval (132 child care places) become operational, the current (2014) gap will be reduced to 229 places.
- If all DAs currently approved (132) and under consideration (341) become operational the forecast gap will be reduced to 180 places by 2021.
- The suburbs with the highest current (April 2014) demand are Bellevue Hill (211 gap) and Paddington (162 gap).
- The main gap is for places for children aged under 2 years. Currently there are places to service only 12.5% of all children aged under 2 years, however, in NSW around 29.7% of all children aged 0 to 2 years access child care.
- While it is anticipated that the private/for-profit market, including DAs currently with Council, will meet much of the demand there are two areas where there is a gap that may not be met through the market:
 - Places for children aged under 2 years; and
 - Increased access by 3 year olds to quality preschool places. Residents indicate a preference for community-based not for-profit and Council preschool services.

Summary

This application seeks to provide a not for profit service operating a preschool program within long day care hours and times to support the needs of working families. This proposal is supported by the Community Services Department subject to it meeting appropriate standards and requirements as outlined in the recommendation above.

Recommendation

This application seeks to provide a not for profit service operating a preschool program within long day care hours and times to support the needs of working families. This proposal is supported by the Community Services Department subject to the following with regard to the child care facility:

1. Full compliance with the Education and Care Services National Regulation 2011.
2. Provision of adequate food preparation area and facilities in accordance with BCA requirements
3. The indoor play area provides craft preparation areas, including sinks, separate from bathroom and kitchen sinks
4. Children's bathrooms are directly or easily accessible from outdoor play areas
5. The outdoor play area is adequately fenced on all sides
6. Compliance with other requirements as outlined in Woollahra DCP 2015 – F1 Child Care Centres
7. For ease of access to bulky equipment store therein, the outdoor play equipment store should be located within easy access to the outdoor play space