

## COUNCIL ASSESSMENT REPORT

Panel Reference	Sydney Central Planning Panel
DA Number	DA507/2016/1
LGA	Woollahra
Proposed Development	Demolition of the existing Margaret Bailey building & the construction of a new 4 storey English Centre building
Street Address	188 New South Head Road, Edgecliff
Applicant/Owner	Ascham School Ltd
Date of DA lodgement	22 November 2016
Number of Submissions	Five (5)
Recommendation	Conditional Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	An educational establishment that has a capital investment value of more than \$5 million
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 55: Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure)</li> <li>• Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Environmental Planning and Assessment Regulation 2000: CI 92 and CI 94</li> <li>• Woollahra Local Environmental Plan 2014</li> <li>• Woollahra Development Control Plan 2015</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> <li>1. Plans and elevations</li> <li>2. Referral Response – Technical Services</li> <li>3. Memorandum – Traffic</li> <li>4. Referral Response – Trees and landscaping</li> <li>5. Referral Response – Heritage</li> <li>6. Referral Response – Environmental Health</li> <li>7. Referral Response – Fire Safety</li> </ol>
Report prepared by	Thomass Wong – Senior Assessment Officer, Woollahra Council
Report date	Dated as 19 April 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes / ~~No~~

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes / ~~No~~ / ~~Not Applicable~~

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes / ~~No~~ / ~~Not Applicable~~

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

~~Yes~~ / ~~No~~ / ~~Not Applicable~~

### Conditions

Have draft conditions been provided to the applicant for comment?

Yes / ~~No~~

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>ITEM No.</b>	0.0
<b>FILE No.</b>	DA507/2016/1
<b>ADDRESS</b>	188 New South Head Road EDGECLIFF (Lot 81 DP217078, Lot 1 DP225312, Lot 9 DP5444, Lot 10 DP5444, Lot 1 DP68900, Lot 1 DP69838, Lot 1 DP224844, Lot 1 DP723473, Lots 1 and 2 DP183645, Lot 1 DP74398) 37 Darling Point Road DARLING POINT (Lot A DP108600) 43 Darling Point Road DARLING POINT (Lot 4 DP5444) (aka <b>Ascham School</b> )
<b>SITE AREA</b>	39,363m <sup>2</sup>
<b>ZONING</b>	SP2 Infrastructure - Educational Establishment
<b>PROPOSAL</b>	Demolition of the existing Margaret Bailey building & the construction of a new 4 storey, English Centre building
<b>TYPE OF CONSENT</b>	Local development
<b>COST OF WORKS</b>	\$8,816,440.00
<b>DATE LODGED</b>	22/11/2016
<b>APPLICANT</b>	Ascham School Ltd
<b>OWNER</b>	Ascham School Ltd
<b>AUTHOR</b>	Mr T Wong
<b>TEAM LEADER</b>	George Fotis
<b>SUBMISSIONS</b>	Five
<b>RECOMMENDATION</b>	Conditional Approval

## SUMMARY

### 1. LOCALITY PLAN



### 2. LEVEL OF DELEGATION

The application is to be determined by the Sydney Central Planning Panel (SCPP) as it relates to an educational establishment that has a capital investment value of more than \$5 million (\$8,816,440.00).

### 3. PROPOSAL

The proposal involves the following works:

- Demolition of the existing Margaret Bailey Building and the associated walkway providing access to the Whitehead Building
- Construction of a new 4 storey English Centre comprising:
  - Ground Floor
    - 5x English classrooms
    - Office
    - Informal learning area
    - WC facilities
  - Level 1
    - 5x English classrooms
    - Office
    - Informal learning area

- WC and male staff WC
    - Balcony
  - Level 2
    - 1x English classrooms
    - 4x Language classrooms
    - Informal learning area
    - WC facilities
    - Balcony
  - Level 3
    - General learning area
    - Plant and store rooms
    - WC and disabled WC
    - Balcony
  - Roof
    - Solar panels (Halse Rogers Building)
    - Skylights
- Reinstate one southern elevation window to Level 3 of the Halse Rogers Building
  - New landscaping to associated courtyard

**Note:** *The subject DA under this assessment does not seek to increase the existing number of students and staff (refer to Condition I.1).*

## 4. ISSUES

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

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings	2.57m or 27% departure from the 9.5m development standard	Acceptable

### 4.2. Primary Issues

Issue	Conclusion	Section
Building height non-compliance	The submitted Clause 4.6 written request is considered to be well founded.	11.4

### 4.3. Summary of Submissions

Issue	Conclusion	Section
View loss from Unit 2C, 3-17 Darling Point Road	This has been discussed under Section 12.4.1. There will be negligible view impact from the objector's property.	12.4.1
Loss of privacy to Unit 2C, Unit 2D and Lot 127, 3-17 Darling Point Road	This has been discussed under Section 12.4.1. There will be no adverse/unacceptable privacy impact to the objectors' properties.	12.4.1
Loss of privacy to the swimming pool and surrounding grounds of 3-17 Darling Point Road	This has been discussed under Section 12.4.1. There will be no adverse/unacceptable privacy impact to the objectors' properties.	12.4.1
Excessive building height, bulk, and scale	This has been discussed under Sections 11.4 and 12.4.1. The height, bulk, and scale of the proposed new building are considered to be acceptable.	11.4 and 12.4.1
Overshadowing and loss of	This has been discussed under Section 12.4.1. The proposed new	12.4.1

Issue	Conclusion	Section
natural light to 3-17 Darling Point Road	building will not result in unacceptable overshadowing to the adjoining properties.	
<b>The following additional issues were raised in the new submission received during re-notification and re-advertising</b>		
Issue	Conclusion	Section
Building height non-compliance, the submitted Clause 4.6 written justification is not well founded.	This has been discussed under Section 11.4. The submitted Clause 4.6 written request is considered to be well founded.	11.4
The proposal is contrary to the objectives and controls of the DCP with regard to <ul style="list-style-type: none"> <li>Building Design</li> <li>Setback</li> </ul>	This has been discussed under Section 12.4.1. The proposal is considered to be satisfactory with regard to building design and setback.	12.4.1

## PROPERTY DETAILS AND REFERRALS

### 5. SITE AND LOCALITY

<b>Physical features</b>
The subject site which has an area of 39,363m <sup>2</sup> containing multiple allotments which are as follows: <ul style="list-style-type: none"> <li>188 New South Head Road EDGECLIFF (Lot 81 DP217078, Lot 1 DP225312, Lot 9 DP5444, Lot 10 DP5444, Lot 1 DP68900, Lot 1 DP69838, Lot 1 DP224844, Lot 1 DP723473, Lots 1 and 2 DP183645, Lot 1 DP74398);</li> <li>37 Darling Point Road DARLING POINT (Lot A DP108600); and</li> <li>43 Darling Point Road DARLING POINT (Lot 4 DP5444)</li> </ul>
<b>Topography</b>
The topography of the site varies with the natural terrain. The area where the proposed new English Centre building will be located is relatively flat.
<b>Existing buildings and structures</b>
Existing on the site are school buildings and sports fields/courts.
<b>Surrounding Environment</b>
The site is surrounded predominately by medium density residential development. The southern portion of the site and its main entrance adjoins retail and commercial uses. A multi-storey residential flat building (known as the 'Ranelagh') and its outdoor swimming pool and surrounding grounds are located to the immediate west of the proposed works.





Figure 1: Aerial photo

## 6. RELEVANT PROPERTY HISTORY

<b>Current use</b>
Educational Establishment
<b>Relevant Application History</b>
<p>A search of Council's Authority database identified the following relevant planning history:</p> <ul style="list-style-type: none"> <li>DA550/2013- Alterations, additions &amp; use of Duntrum House and Annexe building for school boarding facilities; construction of new science classroom building connecting to the Ascham School Whitehead Building; associated landscaping works; student cap of 1,240 inclusive of boarders - Approved- 28/04/2014. The following conditions were imposed and are relevant to this current DA: <ul style="list-style-type: none"> <li><b>1.1 Staff, pupil and boarder numbers</b> <ul style="list-style-type: none"> <li>a) The existing number of staff, pupils and boarders at Ascham School shall not exceed 255 staff, 1240 students inclusive of 135 boarders (enrolled students).</li> <li>b) An annual statement is required to be submitted to Council showing the total number of staff and students enrolled and verifying compliance with the cap imposed.</li> </ul> </li> </ul> </li> </ul>

## **I.2 Hours of use**

*The hours of use of the proposed new science building is limited to the following:*

*a) Monday to Sunday: 7am to 10pm*

**Note: The above relevant conditions have also been recommended to be imposed as part of this DA.**

- DA550/2013/2- Internal and external changes to the approved scheme: changes to building facade and approved landscaping, addition of a new sub-station (Condition C.7) and modification to Construction Management Plan (Condition D.3)- Approved- 17/09/2014;
- DA550/2013/3- Removal of two trees (T4 - located on the southern side of Darling Point Road access driveway and T72 located on the western side of Dutrim House) - Approved- 26/06/2015;
- DA550/2013/4- Removal of Lophostemon confertus tree (Brushbox - T45) - Approved- 17/02/2016;
- DA331/2014- Remove two heritage Moreton Bay fig trees from grounds of Ascham School- Approved – 30/09/2014;
- DA366/2015- Refurbishment of children's playground including new equipment soft fall landscaping and seating- Approved – 16/09/2015;
- DA460/2016/1 for demolition of the existing substation located in the vicinity of Margaret Bailey Building and the construction of a new substation kiosk and a main switchboard in the car park in the southern portion of the site modifications to cables to the site and erection of bollards around the new substation – This DA is to be considered by the DCC on 24/4/2017.

### **Relevant Compliance History**

Nil

### **Pre-DA**

A Pre-DA Consultation Meeting for a similar scheme to the subject DA was held on 13/9/2016. The minutes of the Pre-DA meeting concluded that:

*The proposal requires amendment and additional justification to be considered acceptable with respect to the Woollahra LEP 2014 and Woollahra DCP 2015.*

The following issues were also identified:

- *The proposed third floor of the building results in a significant non-compliance with the maximum statutory height control. Given that the area of non-compliance consists of a potential third floor (no use has been specified on the plans) there would not appear to be sufficient environmental grounds to justify this non-compliance. The proposed development should therefore be lowered accordingly;*
- *A Demolition Report is required to be submitted to ascertain the heritage significance of the Margaret Bailey building and whether it is appropriate to allow for the demolition of the subject building;*
- *In order to adequately assess the impact of the proposed development on surrounding heritage items an updated Conservation Management Plan of the Ascham School Precinct containing an assessment of all buildings, landscape and archaeological items, prepared in accordance with the Australia ICOMOS Burra Charter and the NSW Heritage Division guidelines is required to be submitted;*
- *As no additional onsite car parking has been proposed to be provided a Traffic and Parking Report is required to adequately assess the traffic and parking impacts of the proposal;*
- *To make a full assessment of the amenity impacts of the proposed roof terrace any application of this nature shall detail the exact location and extent of the terrace, how terrace is intended to be used, times of use and whether there will be any fixed shading or other fixed structures to be erected on this terrace;*
- *As the applicant has indicated that the proposed roof terrace to the new building is to be licensed to allow for the serving of alcohol to staff and parents for after hour functions. A Management Plan for Licensed Premises would need to be provided in order to adequately assess the amenity impacts of this licensed area.*

The current proposal has been amended from the Pre-DA proposal in response to the above issues in the following ways:

<ul style="list-style-type: none"> <li>Roof form and overall building height have been adjusted to match the existing ridgeline of the Margaret Bailey Building (to be demolished).</li> <li>A Demolition Report has been submitted.</li> <li>A Conservation Management Plan has been submitted.</li> <li>A Traffic and Parking Report has been submitted.</li> <li>Level 03 is now designated as a general learning area which can be extended to the associated terrace/balcony.</li> <li>The new building does not seek approval as a licenced area therefore the serving of alcohol to staff and parents for after hour functions is prohibited.</li> </ul>
<b>Requests for Additional Information and Replacement Applications</b>
<p>The following additional information was requested on 16/12/2016:</p> <ul style="list-style-type: none"> <li>Stormwater management plan (received on 13/1/2017)</li> <li>Existing and proposed gross floor area of the affected buildings (received on 13/1/2017)</li> </ul>
<b>Land and Environment Court Appeal(s)</b>
Nil

## 7. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to <b>Conditions A.3 , B.4 , C.3 to C.6, D.2, D.3, D.7, E.3, E.11 to E.17, E.21, and F.2.</b>	2
Traffic	Satisfactory, subject to <b>Condition D.3.</b>	3
Trees and Landscaping	Satisfactory, subject to <b>Conditions A.4, B.5 to B.7, and E.7 to E.10.</b>	4
Heritage	Satisfactory, subject to <b>Conditions B.2 and E.4(b) .</b>	5
Environmental Health	Satisfactory, subject to <b>Conditions C.7 to C.10, E.6, E.21, I.3 and I.4.</b>	6
Fire Safety	Satisfactory, subject to <b>Conditions F.3, F.4, and I.5.</b>	7

## ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C

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

- The provisions of any environmental planning instrument
- The provisions of any proposed instrument that is/has been the subject of public consultation
- The provisions of any development control plan
- 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
- The likely impacts of that development:
  - Environmental impacts on the natural and built environments
  - Social and economic impacts
- The suitability of the site
- Any submissions
- The public interest

## 8. ADVERTISING AND NOTIFICATION

### 8.1. Submissions

The application was advertised and notified from 30/11/2016 to 14/12/2016 in accordance with Chapters A2.2.1, A2.3.1 and A2.8 of the Woollahra DCP 2015. Submissions were received from:



1. Michael Jarvin, Unit 2C, 3-17 Darling Point Road, Darling Point
2. Michael Baltins by his attorney Peter Baltins, 2D, 3-17 Darling Point Road, Darling Point
3. Ian Plater, Lot 127, 3-17 Darling Point Road, Darling Point
4. Gary Donnison, Secretary, SP4680 (i.e. 3-17 Darling Point Road, Darling Point)

The issues raised in the submissions are summarized in Section 4.3.

## **8.2. Re-advertising and Re-notification**

The application was re-advertised and re-notified from 15/2/2017 to 1/3/2017 to indicate all lot and DP numbers with respect to the property address. The following submissions have been received as a result of the :

- Michael Jarvin, Unit 2C, 3-17 Darling Point Road, Darling Point (original objector)
- Ingham Planning Pty Ltd (new objector on behalf of the Executive Committee of SP4680 at No. 3-17 Darling Point Road)

The submissions raised similar and additional concerns which are summarised in Section 4.3.

## **8.3. Statutory Declaration**

The applicant has completed the statutory declarations dated 14/12/2016 and 1/3/2017 declaring that the site notices for DA507/2016/1 were erected and maintained during the notification periods in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

## **9. STATE ENVIRONMENTAL PLANNING POLICIES**

### **9.1. State Environmental Planning Policy 55: Remediation of Land**

An assessment of the Initial Site Evaluation provided by the applicant indicates the land does not require further consideration under Clause 7(1)(b) and (c) of SEPP 55. The proposal is therefore acceptable with regard to SEPP 55: Remediation of Land.

### **9.2. State Environmental Planning Policy (Infrastructure)**

#### **9.2.1 Division 3: Educational Establishments**

SEPP (Infrastructure) 2007 applies as the development application involves an education establishment.

#### **9.2.2 Clause 28: Development Permitted with Consent**

Clause 28(2) of the SEPP states:

*Development for any of the following purposes may be carried out by any person with consent on any of the following land:*

- (a) development for the purpose of educational establishments—on land on which there is an existing educational establishment,*

- (b) development for the purpose of the expansion of existing educational establishments—on land adjacent to the existing educational establishment.*

Clause 28(3) of the SEPP states:

*An educational establishment (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.*

In accordance with the above-mentioned provisions, the proposed development is permissible with consent.

### **9.2.3 Clause 32: Determination of Development Applications**

The relevant provisions of Clause 32 state:

- (2) Before determining a development application for development for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this Policy):*

- (a) School Facilities Standards—Landscape Standard—Version 22 (March 2002),*
- (b) Schools Facilities Standards—Design Standard (Version 1/09/2006),*
- (c) Schools Facilities Standards—Specification Standard (Version 01/11/2008).*

- (3) If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.*

The applicant has provided a written statement that the proposal is consistent with regard to the above-mentioned standards.

## **10. 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.

## **11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014**

### **11.1. Part 1.2: Aims of Plan**

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

### **11.2. Land Use Table**

The proposal is defined as an ancillary use to the educational establishment which is permitted and is consistent with the objectives of the SP2 Infrastructure – Educational Establishment zone.

### **11.3. Part 4.3: Height of Buildings**

Part 4.3 limits development to a maximum height of 9.5m.

	Existing	Proposed	Control	Complies
Maximum Building Height	11.84m	11.81m (roof, RL55.98) 12.07m (lift overrun, RL56.41)	9.5m	NO*

\* A written request pursuant to Cl 4.6 of WLEP 2014 has been submitted

The proposal does not comply with Part 4.3 of Woollahra LEP 2014 as detailed and assessed in Part 11.4.

## 11.4. Part 4.6: Exceptions to Development Standards

### 11.4.1 Departure

The proposal involves a non-compliance with the height of buildings statutory development standard under Part 4.3 of the Woollahra LEP 2014. The proposed roof (RL55.98) and lift overrun (RL 56.41) will reach an overall height of 12.07m which equates to a 27% departure from the 9.5m development standard height limit, as detailed in Section 11.3 above.

**Note: The majority of the new development proposes a maximum RL of 55.98 of AHD.**

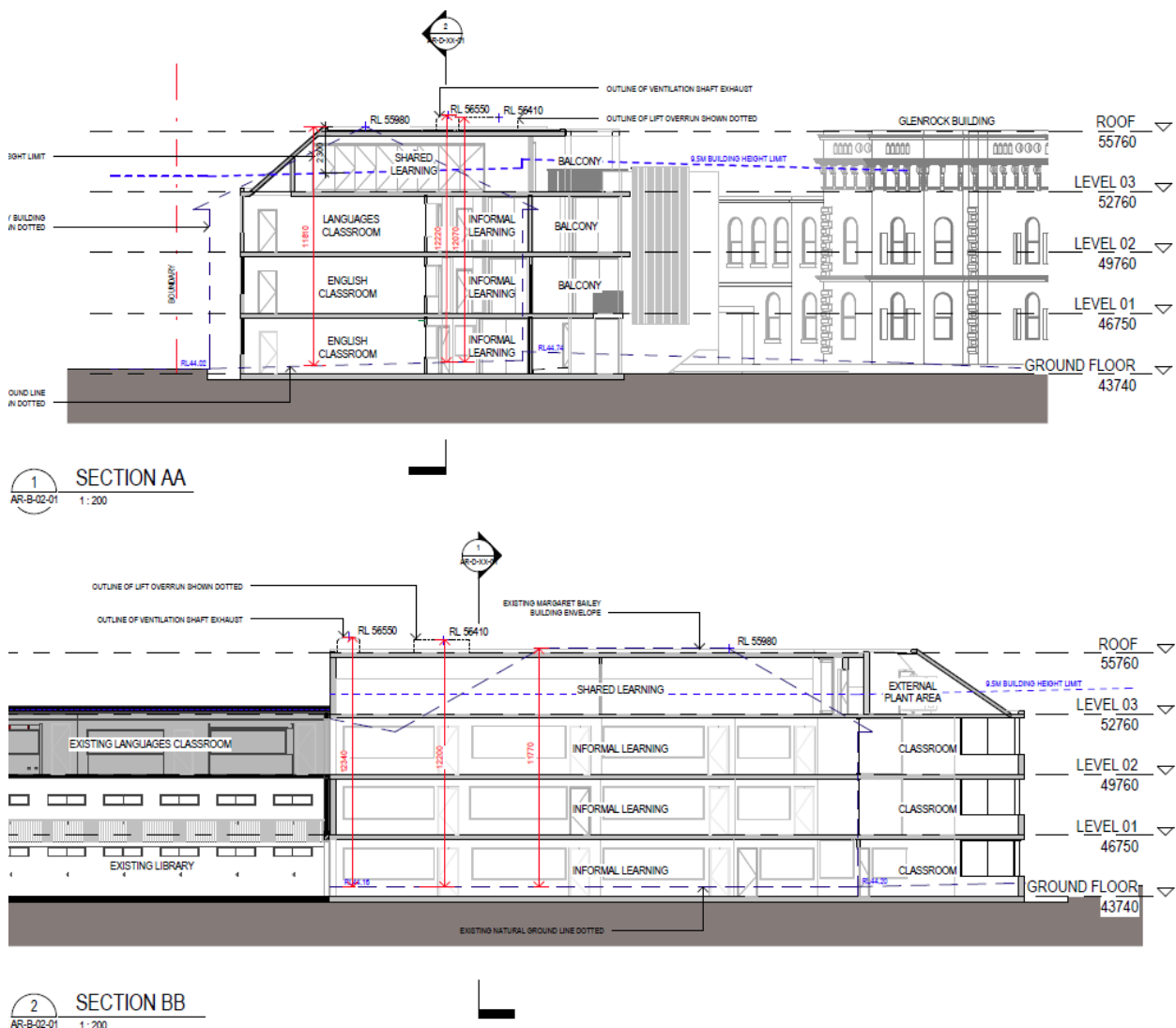


Figure 2: Section AA and Section BB (Source: BVN)

### 11.4.2 Purpose

Part 4.6 allows a contravention of a development standard with the objectives being to allow an appropriate degree of flexibility in applying certain development standards to particular development and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

### 11.4.3 Written Request

Part 4.6(3) stipulates that a written request is required from the applicant that justifies the contravention of the development standard by demonstrating that compliance with is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify the contravention.

The applicant has provided the following written request in relation to the departure:

*Compliance with the height standard is unreasonable and unnecessary given the following circumstances of this case:*

- There is an existing non-compliance with the height control which is the same as the proposal (2.3m or 24% variation) The proposal will fall generally within the existing hipped roof form with the exception of a small portion of the eastern and western ends and a small portion of the built form which fronts the internal school courtyard;*
- The additional height is generally treated as a hipped roof and along the southern elevation with the Ranelagh tower, the proposed development will have the same roof and wall portions as the existing Margaret Bailey Building and the proposal will appear as a three storey development;*
- The height variation will allow for additional general learning space for the school which will be predominately used as an examination room and shared learning spaces. It is noted that the proposal will not increase the staff or student numbers while it will provide for a reconfiguration of teaching spaces. It is noted that the current built form and room configuration restrict the Dalton method of teaching;*
- The proposed height will create an appropriate height transition with the adjoining Whitehead Building and Halse Rogers Building and will be consistent with the height of the Glenrock Building which is heritage listed. Furthermore, the proposal is substantially lower than the adjoining residential Ranelagh tower which is 32 storeys (3-17 Darling Point Road);*
- The proposed built form will be setback a 1.4m further than the existing Margaret Bailey Building from the southern boundary with the Ranelagh tower (3-17 Darling Point Road). The southern elevation of the upper level is setback from the building edge which reduces the bulk and scale to the Ranelagh tower. Furthermore, the northern elevation is recessed from the building edge and therefore minimises the visual impact to the internal courtyard and Glenrock House;*
- The proposal will result in some solar gain and minor additional overshadowing to the southern neighbour (3-17 Darling Point Road). This neighbour will still retain sufficient solar access to their northern elevation and communal open space (including the swimming pool);*
- The proposal will not create any additional privacy impacts to the adjoining southern neighbour (3-17 Darling Point Road) given there is translucent glazing to the windows facing the southern elevation and the balcony faces internally to the school courtyard;*

- *The proposal will generally fall within the existing hipped roof with the exception of a small portion of the eastern and western ends, a small portion of the built form which fronts the internal school yard and the exhaust and lift overrun;*
- *The exhaust and lift overrun elements are set in from the building edge and are not highly visible from adjoining neighbours;*
- *The exhaust will allow for improved ventilation to the classrooms while the lift will provide access for disabled people and therefore will create a better planning outcome;*
- *The exhaust and lift overrun elements will not create any significant amenity impacts with regard to overshadowing, privacy or view loss;*
- *Notwithstanding the height variation the proposal is consistent with the objectives of the height standard and SP2 Infrastructure Zone as described below;*
- *The contravention of the height standard does not raise any matter of State or regional planning significance; and*
- *There is no public benefit in maintaining the standard in the circumstances of the case as explained below.*

*There are sufficient environmental planning grounds for the contravention to the height standard as follows:*

- *The Land and Environment Court in its recent decisions in Four2Five vs Ashfield Council has ruled that a Clause 4.6 variation must do more than demonstrate that the development meets the objectives of the development standard and the zone, a test commonly referred to as the Wehbe Test #1 (which are matters dealt with further below). The clause 4.6 objection must also demonstrate some other environmental planning grounds that justify contravening the development standard, preferably some that are specific to the site, although that is not essential, according to the Court of Appeal decision in Four2Five vs Ashfield Council. The decision also suggests that the requirements under Clause 4.6(3)(a) and (b) must not be ‘watered down’ and must be adequately addressed. In this instance Wehbe test # 2 also applies; that is, that strict compliance would tend to hinder the attainment of the objects of the Environmental Planning & Assessment Act 1979 (the Act) in particular 5(a)(i) and (ii). The increased height will not significantly impact upon the amenity of the adjoining neighbours and the proposed height will create an appropriate transition with the adjoining buildings and is significantly lower than the 32 storey to the southern neighbour. The additional height will also allow for the orderly and economic use of the land by providing additional general shared learning space which is required for existing students. It can readily be seen that this is “a better outcome” (one of the objectives of clause 4.6) than a compliant envelope. As such, strict compliance with the development standard would tend to hinder the attainment of the objects of the Act. This means that Wehbe test # 3 is satisfied, as is Four2Five vs Ashfield Council;*
- *There is an existing non-compliance with the height control and the proposal will fall generally within the existing hipped roof form with the exception of a small portion of the building;*
- *The additional height will allow for further general learning space which is consistent with the Dalton Plan and creates an area for examinations which is currently constraint within the campus. Furthermore, larger learning spaces are generally not common in schools of this age. Therefore the proposal will create a better planning outcome;*
- *The proposed building envelope will create an appropriate height transition with surrounding buildings and will be setback further than the existing Margaret Bailey Building along the southern boundary. Furthermore, the roof form will be hipped along the southern and western ends to reduce the bulk and scale of the building while the building will appear as a three storey structure along the southern boundary which will create a better planning outcome;*



- *The additional height will not significantly impact upon the amenity of the adjoining southern neighbour in terms of overshadowing, view loss or privacy; and*
- *Given the above, strict compliance with the height controls would hinder the attainment of the objects of the Act, and would not result in the orderly and economic use and development of land.*

*The particular development standard is Clause 4.3 Height of Buildings of the SLEP 2012 and the relevant objectives are addressed below:*

- a) The site does not fall within a special character area in the Woollahra Development Control Plan 2014. The surrounding built form has varying heights with the school being predominately 2 to 3 storeys in height while there are taller buildings to the south which form part of Edgecliff town centre and adjoining to the south is a 32 storey tower at 3-17 Darling Point Road. The proposal is generally consistent with the immediately surrounding buildings and is substantially lower than the adjoining 32 storey tower.*
- b) The proposed building envelope will create an appropriate height transition with surrounding residential zone to the south. The built form will be setback 1.5m further than the existing built form and will appear as a three storey building along the southern boundary given it has a hipped roof along this elevation. Along the southern elevation the proposal will have the same roof and wall portions as the existing Margaret Bailey Building.*
- c) The DA is accompanied by overshadowing diagrams and elevational shadow diagrams. The proposal will result in some solar gain and minor additional overshadowing to the southern neighbour (3-17 Darling Point Road) and the neighbour will retain sufficient solar access to their northern elevation and communal open space (including the swimming pool).*
- d) The proposal will not create any additional privacy impacts to the adjoining southern neighbour (3-17 Darling Point Road) given there is translucent glazing to the windows facing the southern elevation and the balcony faces internally to the school courtyard. The proposal will not impact upon any significant views or create any additional significant overshadowing to the adjoining neighbours.*
- e) The proposal will not impact upon any public views of the harbor or surrounding areas.*

*The site falls within the SP2 Infrastructure zone, and the relevant objectives are addressed below.*

- *The proposal will create further educational floor space for the locality.*
- *The proposed educational use will be compatible with and not detract from the provision of infrastructure.*

*As discussed above the proposal is considered in the public interest as it is consistent with the objectives of the development standard and the SP2 Infrastructure zone.*

*Furthermore, there is no significant benefit in maintaining the height standard because the proposal generally falls within the extent of the existing roof form, will not create any significant amenity impacts and facilitates a substantially better planning outcome with additional educational floor space for the existing students and staff.*

#### 11.4.4 Assessment

Part 4.6(4) requires Council to be satisfied that the written request has adequately addressed the relevant matters, the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and zone.

The applicant's written request has adequately addressed the relevant matters.

Having regard to the submitted written request above, it is considered that there are sufficient environmental planning grounds to justify contravening the development standard, because:

- the height and siting of the proposed new English Centre building will remain consistent with the height and siting of the existing building it replaces and with other buildings within the school ground and in the immediate locality;
- the proposed new English Centre building will be complimentary to the architectural style of other buildings within the school grounds and the surrounding locality; and
- the proposed new English Centre building will maintain the educational establishment use.

The departure from the control is in the public interest in the following manner:

- The objectives of the Clause 4.3 Height of buildings development standard have been satisfied.
- The objectives of the SP2 Infrastructure zone have been satisfied.

An assessment against the objectives prescribed in Clause 4.3 is provided below:

**(a) *To establish building heights that are consistent with the desired future character of the neighbourhood***

Assessment: The proposed building height will exceed the 9.5m development standard by 2.31m (RL 55.98) to the roof and 2.57m (RL 56.41) to the lift overrun.

The proposed building height is consistent with the desired future character of the neighbourhood and will therefore achieve consistency with objective (a).

**(b) *To establish a transition in scale between zones to protect local amenity***

Assessment: The subject site is within the SP2 Infrastructure (Educational Establishment) zone and adjoins the R3 Medium Density Residential zone on which sits a multi-storey residential flat building at No. 3-17 Darling Point Road, Darling Point ('Ranelagh') located to the immediate south-west.

The proposed new building height will maintain a similar roof height and roof form to that of the existing Margaret Bailey building (to be demolished) when viewed from the adjoining R3 zoned land.

With respect to the nearest adjoining building being the 'Ranelagh', although the roof form of the new building will be extended horizontally towards the north east, the maximum ridge height will be maintained. Therefore the bulk and scale of the new building when viewed from the 'Ranelagh' will not be overwhelming.

The proposed replacement building will be a relatively low profile development resulting in an acceptable response to the site context between these two zones and negligible impacts upon the local amenity as discussed Section 12.5.1.

Furthermore, while the proposed lift overrun will be higher than at the main roof, they will have a neutral impact in terms scale and bulk between zones.

The proposal will therefore achieve consistency with objective (b).

**(c) *To minimise the loss of solar access to existing buildings and open space***

Assessment: The proposed building height will not result in any loss of solar access to existing buildings and open spaces on adjoining properties and therefore the proposal will achieve consistency with objective (c). (Refer to Section 12.5.1)

**(d) *To minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion***

Assessment: The proposed building height will not result in any adverse amenity impacts to adjoining or nearby properties in terms of views, loss of privacy, overshadowing or visual intrusion and therefore the proposal will achieve consistency with objective (d). (Refer to Section 12.4.1)

**(e) *To protect the amenity of the public domain by providing public views of the harbour and surrounding areas***

Assessment: The proposed building height will not result in any adverse amenity impacts to the public domain or views from public areas and therefore the proposal will achieve consistency with objective (e).

The development is also consistent with the objectives applying to the SP2 zone as follows:

• ***To provide for infrastructure and related uses.***

Assessment: The subject site is currently providing an educational establishment (the Ascham School) and will continue to operate as such.

• ***To prevent development that is not compatible with or that may detract from the provision of infrastructure.***

Assessment: The proposed development will provide improved facilities to the Ascham School and is compatible with the provision of infrastructure.

### **11.4.5 Conclusion**

The proposal is in the public interest and consistent with the objectives of the height of buildings development standard. There are sufficient environmental planning grounds to justify contravening the development standard. Departure from the development standard therefore is supported.

### **11.5. Part 5.9: Preservation of Trees or Vegetation**

Part 5.9(1) seeks to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation where there are works to any tree or other vegetation.

The proposal is acceptable with regard to Part 5.9 of the Woollahra LEP 2014.

### 11.6. Part 5.10: Heritage Conservation

The subject site is not located in a heritage conservation area but contains a Heritage Item – 239 described in Schedule 5 of WLEP 2015 as follow:

Suburb	Item name	Address	Property description	Significance	Item no
Edgecliff	Ascham school precinct comprising: “Fiona” including interiors and former entrance gates, “Glenrock” including interiors and inner and outer gates, the Dower House including interiors, sand-stone works, remaining open space and oval adjacent to “Fiona”, 4 Moreton Bay Figs, [see related items “The Octagon”, (Octagon Road), “Yeomerry” (1 St Mark’s Road) and “Duntrim” (37 Darling Point Road) which are part of Ascham school]	188 New South Head Road	Lot 1, DP 74398; Lot 1, DP 224844; Lots 1 and 2, DP 183645; Lots 4 and 5, DP 33456; Lot 1, DP 69838; Lot 1, DP 68900; Lot 1, DP 723473; Lot 81, DP 217078; Lot 1, DP 225312; Lots 9 and 10, DP 5444	Local	239

Council’s Heritage Officer has no objection to the proposed demolition of the Margaret Bailey Building and the erection of the new replacement building, subject to **Condition B.2** and **E.4(b)**. (Refer to **Annexure 5** for Heritage Referral Response)

The proposed development is acceptable with regard to the objectives in Parts 5.10 of the Woollahra LEP 2014.

### 11.7. Part 6.1: Acid Sulfate Soils

The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, a preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

### 11.8. Part 6.2: Earthworks

Part 6.2(1) requires Council to ensure that any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The proposal involves minor excavation which will occur to within 3.05m of the boundary and extend to the maximum depth of 1m.

In terms of ESD principles, the extent of soil being removed from the site is considered to be acceptable.

In deciding whether to grant consent for earthworks, the consent authority must consider the following matters:

- (a) *The likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development*
- (b) *The effect of the development on the likely future use or redevelopment of the land*
- (c) *The quality of the fill or the soil to be excavated, or both*
- (d) *The effect of the development on the existing and likely amenity of adjoining properties*
- (e) *The source of any fill material and the destination of any excavated material*
- (f) *The likelihood of disturbing relics*
- (g) *The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area*
- (h) *Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

Council's Development Engineer has provided the following comments in relation to the proposed excavation:

*A Geotechnical Report by martens consulting engineers, Ref: P1605566JR01V01, dated November 2016, has been submitted in support of the application. The proposal involves excavation with a depth of about 1 metre for the proposed English and Languages Centre.*

*The report identified that the subsurface conditions as:*

- a) Fill comprising silty sand to a maximum depth of 0.8m*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 2.2m*
- c) Sandstone bedrock was encountered beneath the natural sand.*
- d) Groundwater appeared not to be an issue.*

*The report made comments and recommendations on the following:*

- *Shoring and support,*
- *Vibration Monitoring,*
- *Excavation method,*
- *Further Geotechnical input.*

*Council's Technical Services has no objection to the proposed excavation on technical grounds.*

Subject to the imposition of Council's standard conditions requiring the following, it is considered that potential adverse environmental impacts related to the proposed excavation will be minimised as much as is practically possible:

- adequate dust mitigation;
- the appropriate disposal of excavated material;
- limiting the times and duration of machine excavation;
- the maintenance of a safe pedestrian route;
- the structural support of neighbouring buildings and public land during excavation;



- the requirement for a Construction Management Plan; and
- the implementation of hydrogeological / geotechnical and vibration monitoring programs requiring the adequate supervision/ monitoring of the excavation process by a qualified and practicing geotechnical engineer.

The proposal is therefore acceptable with regard to Part 6.2 of the Woollahra LEP 2014.

### **11.9. Part 6.3: Flood Planning**

Part 6.3 seeks to minimise the flood risk to life and property development, allow development on land that is compatible, consider projected changes as a result of climate change and avoid significant adverse impacts on flood behaviour and the environment in flood prone areas.

Council's Technical Services provided the following comments:

*The property is not subject to flood related development control.*

The proposal is acceptable with regard to Part 6.3 of Woollahra LEP 2014.

## **12. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015**

### **12.1. Chapter B1: Darling Point Residential Precinct**

The proposal satisfies the precinct objectives outlined in Part B1.1.3 of the Woollahra DCP 2015.

The proposal meets the streetscape character and key elements of the precinct and desired future character objectives of the Darling Point precinct, as noted in Part B1.1.2 of the Woollahra DCP 2015.

### **12.2. Chapter B3: Part B3.4 Excavation**

While the volume of excavation controls prescribed in Part B3.4 only refer to residential development, the proposed excavation has been assessed under Section 11.8 (Clause 6.2) of the WLEP 2014 and in Section 12.5.1 (Control C5h of Part F2.2 in Chapter F2) of the WDCP 2015.

### **12.3. Chapter E1: Parking and Access**

Council's Traffic and transport Engineer provided the following comments:

#### *Parking Provision*

*For educational establishments, Council's DCP 2015 Chapter E1 Parking and Access stipulates on-site parking at the rate of minimum 1 space per 100m<sup>2</sup> and requires on-site parking for disabled persons to be provided at a minimum rate of one space per 50 car spaces or part thereof. The parking requirement has been calculated based on the above rate which generates a minimum parking requirement of*

$$1 \text{ per } 100\text{m}^2 \times (1696\text{m}^2 - 754\text{m}^2) \approx 10 \text{ spaces}$$

*No additional disable parking is required.*

*The proposal does not include any additional on-site parking which results in a shortfall of 10 spaces. This parking provision does not satisfy Council DCP requirement.*

*Nevertheless Council has imposed a student as well as a staff population cap under DA 550/2013 – staff cap of 270 and student cap of 1240. As such, the parking implication associated with this proposed intensification will not noticeably differ from the implications that have already considered under DA 550/2013.*

*Traffic and Parking Assessment by Arup discussed various methods that have been implemented by the School to discourage car use. These methods appear to be effective so far as Traffic Section has not been made aware of any concerns raised by the community about on-street parking associated with the School. Resident permit parking schemes operate in close vicinity to the subject site which do currently assist to some extent neighbouring residents without off-street parking or visitors in terms of their ability to find on-street parking. Such schemes will remain viable as students and staff will be denied access to these schemes as per Council Policy. Overall it is considered that the proposed development will not generate unacceptable adverse impact on the on-street parking on the surrounding road network.*

#### Traffic Generation

*Traffic and Parking Assessment by Arup derived future traffic generation based on the proposed student number breakdown and the existing mode split. It is agreed that the traffic generation associated with the development will be marginal and thus the proposed development will not generate noticeable adverse traffic impact on the existing road network.*

#### Pick up/Drop off

*Traffic and Parking Assessment by Arup analysed pick up/drop off trips based on car trip generation. There is an increase in morning and afternoon pick up/drop off activities associated with senior students. It should however be noted that this increase is a result of the change in student number breakdown which is permitted under DA 550/2013. Improvements such as staggered pick up/drop off time and the utilisation of the existing on-site pick up/drop off have been proposed. Overall this arrangement is considered satisfactory.*

On this basis, **Conditions I.1 and I.2**, which were imposed to the development consent to DA552/2013/1 restricting the maximum number of staff, pupil and boarder numbers and the hours of use of the school, are still relevant and are recommended to continue to apply on the subject site.

## **12.4. Chapter E.2 Stormwater and Flood Risk Management**

The provisions of this chapter require the adequate provision of sustainable stormwater management, the controlled release of stormwater, to prevent flooding downstream in the prevention of stormwater pollution to Sydney Harbour and waterways and to protect land and property from flooding. Council's Development Engineer has raised no objection to the proposal in this regard.

Council's Development Engineer has provided the following comments in relation to these issues:

*The submitted concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. Conditions will be imposed to reflect any required changes*

*required at the CC stage. It is noted from the submitted revised stormwater plan that there is a net reduction in impervious areas of less than 82m<sup>2</sup>, in which case the installation of OSD system is not required. Stormwater runoff from the site will be discharged to the existing stormwater drainage system by gravity.*

*Council's Technical Services Division is satisfied that adequate provision could be made for the disposal of stormwater from the land it is proposed to develop and complies with Chapter E2 "Stormwater and Flood Risk Management" DCP.*

**Condition C.6** addresses stormwater management. The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part E.2 of Woollahra DCP 2015.

## **12.5. Chapter E5: Waste Management**

The proposal is acceptable with regard to the objectives and controls in Chapter E5 of the Woollahra DCP 2015.

## **12.6. Chapter F2: Educational Establishments**

### **12.5.1 Part F2.2: Building and Urban Design**

	Existing	Proposed	Control	Complies
NABERS Rating	Unknown	4 Stars	4 Stars	YES
Solar Access to Adjoining Properties	>50% for 2 hours between 9am and 3pm on June 21	>50% for 2 hours between 9am and 3pm on June 21	50% for 2 hours between 9am and 3pm on June 21	YES

*C1 requires high architectural design, materials and detailing.*

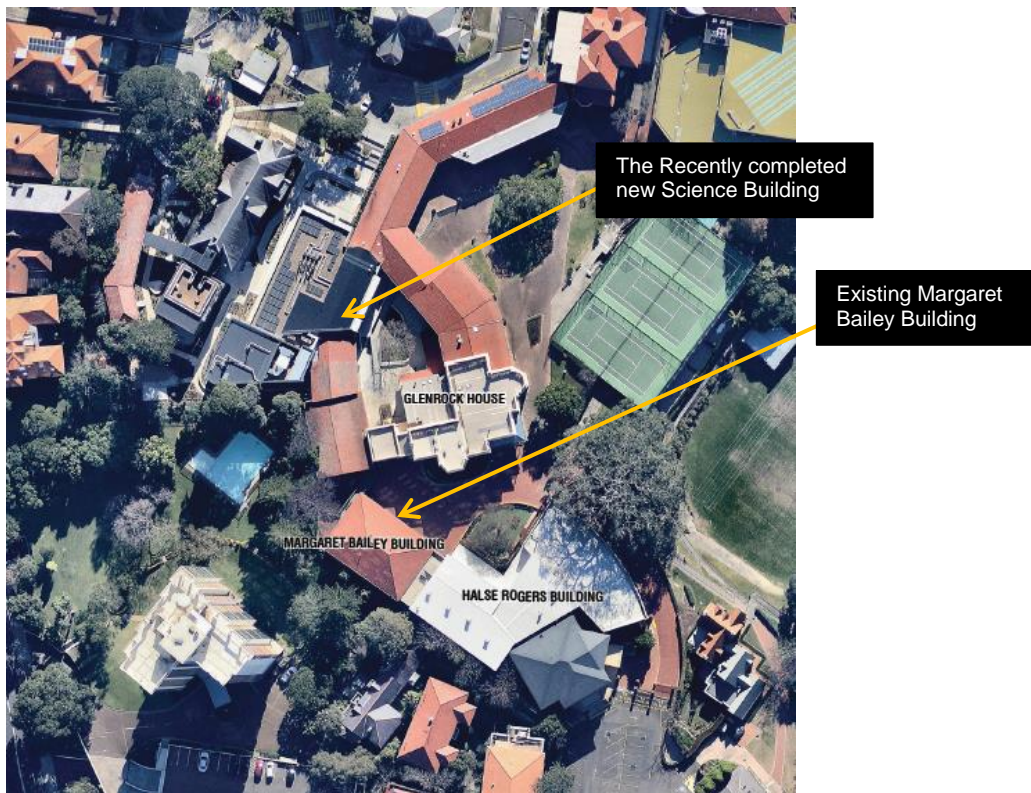
#### Assessment:

In general, the proposed development incorporates a high standard of architectural design which is appropriate for the school setting. The proposed new building follows and extends the building footprint of the existing Margaret Bailey Building (to be demolished) so that the gap between the White Head Building and the Halse Rogers Building will be filled. The new angled building will join the built forms of the two existing buildings with appropriate building articulation through the application of the building setback, modulation, window openings, balconies, metal screens/balustrades and external staircase. The overall appearance of the new building is considered to be sympathetic to and compatible with the adjoining buildings within the school grounds and the adjoining development.

The use of modern materials, including the concrete walls, face brick to wall, perforated fabric screens, metal roof cladding, metal balustrade and metal framed windows, will reinforce the contemporary outlook of the proposed development with respect to the recently completed new Science Building (under DA550/2013/1) which is located to the north-west of the subject building.



*Figure 3: The recently completed new Science Building*



*Figure 4: Location plan of the existing Margaret Bailey Building and the recently completed new Science Building (Source: BVN/Oculus)*

The built form of the new building responds to the existing contemporary new buildings within the school while the prominence and significance of the heritage Glenrock Building directly opposite is retained.





Figure 5: Photomontage of the proposed development (Source: BVN)

Council's Heritage Officer provided the following specific comments on the proposed new building:

*The new Margaret Bailey building will have a clearly contemporary character while occupying the existing building's footprint and height. The main elevation will have a metal screened façade that uniformly wraps along the Margaret Bailey and the existing Halse Roger building.*

*The proposed new building will have fairly prismatic geometric built form with an upper level setback and a concrete new stair protruding in the front, aiming to interpret a traditional clock tower that will be a landmark for the campus. It will be laid in approximately the same position as the existing building, thus not affecting on the presentation of the Glenrock building, but rather providing a consistent background to views to this heritage item. It will provide a better link to the adjacent Whitehead building, filling up the space between the building and the existing Margaret Bailey building, and forming a uniform curving courtyard to the south-west of Glenrock.*

*The new building will use metal for the main façade (north) and facebrick for the main walls, with metal roof cladding and concrete structure. Overall the colour, texture and materiality of the new development will be declaredly modern, but still sympathetic to the heritage precinct and the near heritage significant item Glenrock.*

*Overall, the new building has been designed with consideration to the historic and aesthetic context and is considered acceptable from a heritage perspective.*

*C2 requires a distinguishable entry point from the street.*

#### Assessment:

The existing entry points from the streets will not be impacted upon.

*C3 states that development on the boundary provide sympathetic transition in terms of height, scale, bulk and materials.*



Assessment:

The proposed works are located closest to the south-western and western boundaries of the site adjoining the existing multi-storey residential flat building (known as the 'Ranelagh'). The height of the new building will match and continue the ridgeline of the existing Margaret Bailey Building (to be demolished) and fill in the gap between the White Head Building and the Halse Rogers Building.

The continuation of the built form has been carefully articulated as discussed previously in the report thereby ensuring a compatible appearance with the adjoining buildings and a sympathetic transition to the 'Ranelagh'. In addition, the height, bulk, scale and materials of the new building are considered to be modest and will not result in an adverse visual impact to 'Ranelagh'.

*C4 notes that where the gross floor area exceeds 1,000m<sup>2</sup>, a minimum NATHERS rating of 4 stars is required whilst C5 promotes environmentally sustainable design such as solar design principles, natural ventilation, solar panels, green roofs, shading of windows, low emission or renewable energy sources, recycled building materials and limited excavation.*

Assessment:

The proposed development has been certified with a 4-star NABERS equivalent rating performance level. Environmentally sustainable designs, including solar panels, external screening and natural ventilation, have been incorporated.

The proposed development will only require minimal excavation up to the maximum depth of 1m. Council's Development Engineer has reviewed the submitted geotechnical report and considers the proposed excavation to be satisfactory. The proposed excavation has also been discussed in Section 11.8 in terms of Clause 6.2: Earthworks of WLEP 2014.

### **12.5.2 Part F2.3: Siting of Development**

*C2 and C3 state that side and rear setbacks are to be such that sunlight is provided to adjoining properties to 50% or 35m<sup>2</sup> (with minimum dimension 2.5m), whichever is smaller of the main ground level private open space of adjacent properties for a minimum of two hours between 9am and 3pm on June 21. Where it is already greater than this, it is not to be further reduced.*

Assessment:

The proposed development will generally maintain and continue the building setback from the south-western and western boundaries of the site. Based on the shadow diagrams provided by the applicant, which has been considered as part of this assessment, the adjoining properties will receive sunlight more than the minimum requirements prescribed in Control C2.

*C4 and C5 require side and rear setbacks to ensure acoustic and visual privacy to adjoining residents.*

Assessment:

As discussed above, the new building will maintain and continue the building setback from the south western boundary of the site. The design of the new building has taken due regard to maintaining and protecting the privacy of the 'Ranelagh' in the following ways:

- a. Translucent glazing to west-facing windows – There are three horizontal rows of southwest-facing and west-facing windows in each classroom on the ground floor, Level 01 and Level 02. The bottom row of windowpanes incorporated translucent glazing. The height of these windows however and whether they are operable or not have not been specified and for this reason **Condition C.1(a)** is recommended ensuring these windows be fixed to a minimum height of 1.6m measure from the corresponding finished floor levels.
- b. Recommendations outlined in the submitted acoustic report by Acoustic Logic highlighted:
  - Acoustic seal to windows – Acoustic seals to the classroom windows are recommended to achieve and satisfy all acoustic requirements of AS2107:2016.
  - Concrete roof – The concrete roof with ceiling below is acoustically acceptable.
  - Metal roof – The metal roof is to be acoustically treated and sealed gap free.
  - Walls – Masonry external walls with all penetrations acoustically sealed are acoustically acceptable.
  - Mechanical plant – A dedicated plant room has been located on Level 03 (western end) and roof mounted exhaust fans at the eastern end of the roof. Plant selections are not made at DA stage but a follow up assessment will be required for CC. (**Condition C.8** has been recommended)

Council's Environmental Health Officer has reviewed the submitted acoustic report and has no objection to the report's recommendations.

- c. Location of balconies – All balconies are strategically located to face east towards the landscaped courtyard. Therefore, all potential noise from the use of the balconies will be directed away from the surrounding residential areas.
- d. Continuation of built form – The continuation of built form as well as extended footprint (the filling in of the gap between the White Head Building and the Halse Rogers Building) will eliminate the existing sound gap between buildings and will provide an enhanced physical barrier between the school's courtyard and the 'Ranelagh' for a better acoustic environment.

In view of the above, the acoustic and visual privacy of the residents in the 'Ranelagh' will generally be maintained and will not be impacted upon.

*C6 requires the retention of public domain views and C7 requires the provision of view sharing.*

#### Assessment:

The proposed development will not impact on any significant view from the public domain.

Unit 2C of No. 3-17 Darling Point Road (known as the 'Ranelagh') objected to the proposed development on the basis of view loss.



Figure 6: Location of the objector's property in the context of the subject site

*Notes- 1: bedroom; 2: kitchen; 3: living room and balcony; 4: Northwest-facing window from living room with view towards the city (these are the view references in Figures 8 to 15 below)*



Figure 7: Location of the objector's property in the context of the subject site

In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 140* which has established a four step assessment of view sharing. The steps are as follows:

1. The assessment of the views affected

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Consideration:

The views to be affected are the outlook towards the existing Ascham School's Margaret Bailey Building from the bedroom, kitchen and living room (and the balcony off the living room) towards



the northeast. The existing gap between the Margaret Bailey Building and the White Head Building is also visible. The photos below illustrate these existing views.



Figure 8: View 1 - Existing view from the bedroom of Unit 2C towards the northwest to the existing Margaret Bailey Building



Figure 9: View 2 - Existing view from the kitchen of Unit 2C towards the northwest to the existing Margaret Bailey Building



Figure 10: View 3 - Existing view from the living room of Unit 2C towards the northwest to the existing Margaret Bailey Building



Figure 11: View 4 - Existing view from the northwest-facing living room window of Unit 2C towards the city (no impact)

## 2. Consideration from what part of the property the views are obtained

*The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

### Consideration:

The views are obtained from the bedroom, kitchen and living room to the subject site from a standing position.

## 3. The extent of the impact

*The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*



Figure 12: View 1 - View impact from the bedroom of Unit 2C towards the northwest to the proposed new building



Figure 13: View 2 - View impact from the kitchen of Unit 2C towards the northwest to the proposed new building



Figure 14: View 3 - View impact from the living room of Unit 2C towards the northwest to the proposed new building



Figure 15: View 4 - Existing view from the northwest-facing living room window of Unit 2C towards the city (no impact)

The extent of view loss from the objector's property has been demonstrated in the photomontage images above. The blue dotted lines approximately outline the proposed new building. The potential view impacts to these windows are assessed as follows:

As a result of the proposed development, the outlook of the existing Margaret Building from the bedroom, kitchen and living room will be replaced with the proposed new building reaching the same ridge height. The proposed new building follows and extends the building footprint of the existing Margaret Bailey Building so that the gap between the White Head Building and the Halse

Rogers Building will be filled. In addition, part of the sky over the existing hipped roof will be lost by the new building.

It is noted that the living room also has a northwest-facing window through which a city view is obtained. This view will not be impacted upon.

4. The reasonableness of the proposal that is causing the impact

*The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

The Court poses two questions in *Tenacity Consulting vs Warringah* (2004) NSWLEC 140. The first question relates to whether a non-compliance with one or more planning controls results in view loss.

The second question posed by the Court relates to whether a more skilful design could provide the same development potential whilst reducing the impact on views.

It should be noted that the proposed new building will maintain the ridgeline of the existing Margaret Bailey Building (to be demolished) but will extend the footprint so that the existing gap between buildings and a small part of the sky above the existing hipped roof will be obscured. The non-compliant height is considered to have little and negligible impacts to the view and outlook from Unit 2C whilst the main view from this unit is towards the northwest towards the city which will not be impacted.

The proposed development has demonstrated a skilful design which will not impact on any existing significant public or private views.

## **Conclusion**

The proposal will result in negligible impacts upon existing views from the adjoining property (Unit 2C of No. 3-17 Darling Point Road). No significant or iconic views from the objector's property will be lost. The proposed development demonstrates an overall skilful design in achieving view sharing with the surrounding properties. As such, the proposal is considered to be satisfactory with regard to the relevant objectives in Part B3.5 and the Planning Principle established by *Tenacity Consulting v Warringah* (2004) NSWLEC 140.

### **12.5.3 Part F2.4: Heritage Conservation**

The proposal will not impact upon the heritage significance of the subject heritage item. Council's Heritage Officer has no objection to the proposed development.

#### **12.5.4 Chapter F2.5: Open Spaces**

The proposal will not impact upon the existing playground, sports fields or open space of the school and is considered to be acceptable in this regard.

#### **12.5.5 Part F2.6: Traffic, Parking and Access**

C7 requires compliance with the parking generation rates in Chapter E1. C8 requires provision for emergency access.

The proposed development will result in a numerical shortfall of 10 car parking space. However, as discussed in Section 12.2, the maximum numbers of staff, pupils and boarders are not to be increased, this is considered to be acceptable by Council's Traffic and Transport Engineer.

#### **12.5.6 Part F2.8: Community Use**

The proposed development does not involve any community use; and therefore, this part of the Chapter is irrelevant for assessment.

#### **12.5.7 Conclusion**

The proposal is acceptable with regard to the objectives and controls in Chapter F2 of the Woollahra DCP 2015.

### **13. DRAFT AMENDMENTS TO POLICIES AND PLANS**

#### **Draft Woollahra Development Control Plan 2015 (Amendment No 2) - Amendments to Chapter B3 General Development Controls**

The draft DCP was exhibited from **Wednesday 23 November 2016 to Friday 17 February 2017**.

Key amendments proposed in the draft DCP include:

- Amended objectives to encourage and facilitate design excellence
- Simplified front, side and rear building setback controls
- Clarification of possible variations to the inclined plane and wall height controls
- Replacement of the "floorplate" control with a "footprint" control
- Amended excavation controls to clarify inclusions to volumetric calculations, and clarify basement wall side setbacks
- Minor amendments to acoustic privacy, on-site parking, landscaping, fence and battle-axe lot controls

The amendments in the draft DCP are not relevant to the proposed development.

### **14. SECTION 94 CONTRIBUTION PLANS**

#### **14.1. 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 C.2**.

Cost of Works	Rate	Contribution Payable
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Cost of Works	Rate	Contribution Payable
\$8,816,400	1%	\$88,164

## 14.2. Application of Contributions

Section 3.5 of the Section 94A Contributions Plan 2005 states:

*‘A condition under section 94 of the Act may be imposed on a development consent as an alternative to imposing a condition authorised by this Plan, depending on the nature of the development and the demand for public facilities.’*

In this instance, given the increase in the density of the site, Section 94A contributions have been applied. Accordingly, Section 94 contributions are not applicable.

## 15. APPLICABLE ACTS/REGULATIONS

### 15.1. Environmental Planning and Assessment Regulation 2000

#### **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 E.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 7. An annual fire safety schedule is required to be submitted as detailed in **Condition I.5**.

## 16. 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.

## 17. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

## 18. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

## 19. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 79C.

## 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 Council, as the consent authority, is of the opinion that the written request from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the height of buildings development standard under Clause 4.3 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard.

AND

That Council, as the consent authority, grant development consent to DA507/2016/1 for demolition of existing Margaret Bailey building & construction of new 4 storey, English Centre building on land at 188 New South Head Road EDGECLIFF (Lot 81 DP217078, Lot 1 DP225312, Lot 9 DP5444, Lot 10 DP5444, Lot 1 DP68900, Lot 1 DP69838, Lot 1 DP224844, Lot 1 DP723473, Lots 1 and 2 DP183645, Lot 1 DP74398), 37 Darling Point Road DARLING POINT (Lot A DP108600), 43 Darling Point Road DARLING POINT (Lot 4 DP5444), subject to the following conditions:

### A. General Conditions

#### A.1 Conditions

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

Standard Condition: A1 (Autotext AA1)

#### 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)
Project No 20161359.1	Acoustic Report	Acoustic Logic	04/11/2016
AR-A-XX-03 (Issue E)	Proposed Site Plan	All by BVN	2/11/2016
AR-A-XX-04 (Issue D)	Proposed External Finishes		4/11/2016
AR-B-02-01 (Issue F)	Proposed Ground Floor Plan		2/11/2016
AR-B-03-01 (Issue F)	Proposed Level 01 Floor Plan		2/11/2016
AR-B-04-01 (Issue F)	Proposed Level 02 Floor Plan		2/11/2016
AR-B-05-01 (Issue F)	Proposed Level 03 Floor Plan		2/11/2016
AR-B-06-01 (Issue F)	Proposed Roof Plan		2/11/2016

Reference	Description	Author/Drawn	Date(s)
AR-C-XX-01 (Issue F)	Elevations Sheet 01		4/11/2016
AR-D-XX-01 (Issue H)	Sections		17/3/2017
No reference	Proposed External Finishes – Sample Board	BVN	3/11/2016
P1605566JR01V01	Preliminary Geotechnical and Acid Sulfate Soils Assessment	Martens Consulting Engineers	1/11/2016
Version 2.2	Conservation Management Plan	Hector Abrahams Architects	15/11/2016
DA_L-001 (Rev 03) to DA_L-005 (Rev 03) inclusive	Landscape Plan	Oculus landscape Architect	All dated 13/10/2016
C90790	Arboricultural Impact Assessment Report	Arbor Safe	10/11/2016
Attachment 1	Site Waste Minimisation and Management Plan	Lauren McMahon	17/3/2017

**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 (Autotext AA5)

### 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 (Autotext AA8)

### A.4 Tree Preservation & 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) The following trees shall be retained

- Trees on Private Land

Council Ref No.	Species	Location	Dimension (metres)
145	<i>Ulmus parvifolia</i> (Chinese Elm)	Existing Library Courtyard	7 x 10

b) The following trees shall be pruned in accordance with *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:

Council	Species	Location	Approved pruning
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Ref No.			(extent of pruning)
145	<i>Ulmus parvifolia</i> (Chinese Elm)	Existing Library Courtyard	Prune to provide crown clearance from new balcony to south
181	<i>Araucaria bidwillii</i> (Bunya pine)	Standing on 3-17 darling Point Rd – Adj. to proposed works	Prune as required to provide crown clearance from new building alignment.

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

## **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 (Autotext BB1)

### **B.2 Recording of buildings with little or no heritage significance that are to be demolished:**

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction certificate.

The photographic archival recording is to be bound in an A4 format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties.
- b) Postcard sized photographs of:
  - each elevation,
  - each structure and landscape feature;
  - any significant original internal features;
  - views to the subject property from each street and laneway or public space.

Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.

One original coloured photographic set and a coloured photocopy are to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to the Woollahra Local History Library.

Standard Condition: B4 (Autotext BB4)

### B.3 Identification of Hazardous Material

In accordance with Australian Standard AS2601- 'The Demolition of Structures' the owner shall identify all hazardous substances located on the site including asbestos, Polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per Clause 1.6.1 of the Standard. In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing;

- all hazardous materials identified on the site;
- the specific location of all hazardous materials identified;
- whether the hazardous materials are to be removed from the site as part of the works to be undertaken; and
- safety measures to be put in place.

**Note:** This condition is imposed to protect the health and safety of all persons while works are being undertaken and to ensure all safety measures have been identified and are in place to protect all parties in the immediate vicinity of the site.  
Standard Condition: B6

### B.4 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.5 Establishment of Tree Protection Zones (TPZ)

Tree Protection Zones shall be established around all trees to be retained and in accordance with Section 4 of the *Australian Standard Protection of Trees on Development Sites* (AS 4970- 2009). Tree protection zones must also comply with the following requirements;

a) Tree Protection Zone areas

Council Ref No.	Species	Location	Radius from Centre of Trunk (Metres)
145	<i>Ulmus parvifolia</i> (Chinese Elm)	Existing Library Courtyard	4.7m
181	<i>Araucaria bidwillii</i> (Bunya pine)	Standing on 3-17 darling Point Rd – Adj. to proposed works	4m
182	<i>Syagrus romanzoffiana</i> (Cocos palm)	Standing on 3-17 darling Point Rd – Adj. to proposed works	3m
186	<i>Cupressocyparis leylandii</i> (Leyland Cypress)	Standing on 3-17 darling Point Rd – Adj. to proposed works	2m
196	<i>Brachychiton acerifolius</i> (Illawarra Flame tree)	Standing on 3-17 darling Point Rd – Adj. to proposed works	3m
195	<i>Howea forsteriana</i> (Kentia palm)	Standing on 3-17 darling Point Rd – Adj. to proposed works	1.7m

**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 shall be fenced with a 1.8 metre high chainmesh or weldmesh fence and secured to restrict access. The fence shall be established prior to any materials being bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.
- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
145	<i>Ulmus parvifolia</i> (Chinese Elm)

Trunk protection shall consist of a padding material such as hessian or thick carpet underlay wrapped around the trunk. Hardwood planks (50mm x100mm or similar) shall be placed over the padding and around the trunk of the tree at 150mm centres. The planks shall be secured with 8 gauge wire at 300mm spacing. Trunk protection shall extend a minimum height of 2 metres or to the maximum possible length permitted by the first branches.

- d) A sign identifying the Tree Protection Zone shall be erected on each side of the protection fence indicating the existence of a TPZ. Signage must be visible from within the development site.

- e) No excavation, construction activity, grade changes, storage of materials, stockpiling, siting of works sheds, preparation of mixes or cleaning of tools is permitted within Tree Protection Zones, unless specified in Condition B.2 of this consent.
- f) Establishment of Ground protection  
Temporary access within the TPZ for pedestrian and machinery movements shall only be permitted with the approval of the site arborist or unless specified in Condition B.2 of this consent. Appropriate ground protection shall be installed under the supervision of the site arborist.
- g) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.
- h) The project arborist shall provide written certification of compliance with the above condition.

## B.6 Permissible work within Tree Protection Zones

The following works are permissible within the Tree Protection Zone:

Council Ref No.	Species	Radius from Trunk (metres)	Approved works
145	<i>Ulmus parvifolia</i> (Chinese Elm)	4.7m	Landscaping works. New seating
181	<i>Araucaria bidwillii</i> (Bunya pine)	4m	Excavation for footings of English Classroom building

The project arborist shall provide written certification of compliance with the above condition.

## 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 tree protection fencing	Compliance with tree protection measures
Excavations for courtyard level reductions adjacent to Tree 145	Condition of any exposed roots
Excavations for English Classroom building footings adjacent to Tree 181	Condition of any exposed roots
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
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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:

- a) The window panes on the bottom rows of all classrooms on the Ground Floor, Level 01 and Level 02 to the south elevation are to be fitted with fixed and translucent glazing to a minimum height of 1.6m measured from the corresponding finished floor level. This condition is imposed to comply with Control C5 and to achieve consistency with Objective O3 prescribed in Section F2.3 of Chapter F2 of the Woollahra Development Contrl Plan 2015

**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 (Autotext CC4)

### 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*, *subdivision certificate* or *occupation certificate*, as will apply.

Description	Amount	Indexed	Council Fee Code
<b>LONG SERVICE LEVY</b> under Building and Construction Industry Long Service Payments Act 1986			
<b>Long Service Levy</b> <a href="http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm">http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm</a>	Contact LSL Corporation or use online calculator	No	
<b>SECURITY</b> under section 80A(6) of the Environmental Planning and Assessment Act 1979			
<b>Property Damage Security Deposit</b> -making good any damage caused to any property of the <i>Council</i>	\$208,600	No	T115
<b>DEVELOPMENT LEVY</b>			



under Woollahra Section 94A Development Contributions Plan 2011			
This plan may be inspected at Woollahra Council or downloaded at <a href="http://www.woollahra.nsw.gov.au">www.woollahra.nsw.gov.au</a> .			
<b>Development Levy (Section 94A)</b>	\$88,164 + Index Amount	Yes, quarterly	T96
Security Administration Fee	\$189	No	T16
<b>TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES</b>	\$296,953 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 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.4 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.5 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 pre-set 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 (Autotext: CC40)

## C.6 Stormwater discharge to existing *Stormwater Drainage System*

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

- a) The location of the existing *Stormwater Drainage System* including all pipes, inspection openings, surface drains, pits and their discharge location,
- b) The state of repair of the existing *Stormwater Drainage System*,

- c) Any remedial works required to upgrade the existing Stormwater Drainage System to comply with the BCA,
- d) Any remedial works required to upgrade the existing Stormwater Drainage System crossing the footpath and any new kerb outlets,
- e) Any new Stormwater Drainage System complying with the BCA,
- f) Interceptor drain(s) at the site boundary to prevent stormwater flows from the site crossing the footpath,
- 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

Where any new Stormwater Drainage System crosses the footpath area within any road, separate approval under section 138 of the Roads Act 1993 must be obtained from Council for those works prior to the issue of any Construction Certificate.

All Stormwater Drainage System work within any road or public place must comply with Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works dated February 2012.

**Note:** Clause F1.1 of Volume 1 and Part 3.1.2 of Volume 2 of the BCA provide that stormwater drainage complying with AS/NZS 3500.3 Plumbing and drainage - Part 3: Stormwater drainage is deemed to satisfy the BCA. Council's specifications apply in relation to any works with any road or public place.

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

**Note:** Stormwater Drainage Systems must not discharge to any Sewer System. It is illegal to connect stormwater pipes and drains to the sewerage system as this can overload the system and cause sewage overflows. See:

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

**Note:** Woollahra Municipal Council's Specification for Roadworks, Drainage and Miscellaneous Works dated January 2003 and Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management can be downloaded from Council's website: [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au)

Standard Condition: C49

## C.7 Light & Ventilation

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail all a lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the BCA or clause 3.8.4 and 3.8.5 of the BCA Housing Provisions, inclusive of [AS 1668.1](#), [AS 1668.2](#) and [AS/NZS 3666.1](#). If an alternate solution is proposed then the Construction Certificate application must include a statement as to how the performance requirements of the BCA are to be complied with and support the performance based solution by expert evidence of suitability. This condition does not set aside the mandatory requirements of the Public Health (Microbial Control) Regulation 2000 in relation to regulated systems. This condition does not set aside the effect of the Protection of the Environment Operations Act 1997 in relation to offensive noise or odour.

**Note:** Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the Regulation prevents the issue of a Construction Certificate unless the Accredited Certifier/Council is satisfied that compliance has been achieved. Schedule 1, Part 3 of the Regulation details what information must be submitted with any Construction Certificate. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the Protection of the Environment Operations Act 1997 have

overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#).  
Standard Condition C59

## C.8 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](http://www.acoustics.asn.au/index.php)).
2. **Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

Standard Condition: C62 (Autotext CC62)

## C.9 Design sound levels for building interiors

The *Construction Certificate* plans and specifications required by clause 139 of the *Regulation*, must provide details showing how the recommendations of the Environmental Noise Impact Assessment, prepared by Acoustic Logic will be implemented.

Design sound levels for building interiors should not exceed those recommended maximum design sound levels,  $L_{Aeq}$ , dB(A) specified by AS 2107-2000, *Acoustics - Recommended design sound levels and reverberation times for building interiors*.

**Note:** The design sound levels given in AS 2107-2000 are not necessarily appropriate in all circumstances. In particular, lower noise levels may be appropriate in quiet environments or where expectations of quality are high. For example, lower design sound levels than those given as satisfactory in AS 2107-2000 may be preferred for luxury hotels and apartments. However, additional costs will be incurred in achieving sufficient sound attenuation between spaces for acoustic privacy requirements. For each 5 dB reduction in the ambient sound level, 5 dB must be added to the overall sound isolation performance of the dividing elements to maintain the same level of acoustic privacy. There could also be additional costs associated with the provision of quieter building services. As a minimum compliance with the *BCA* is mandatory.  
Standard Condition: C63

## C.10 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.

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

**D.1 Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)**

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

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

This condition does not apply:

- a) to the extent to which an exemption is in force under *the Home Building Regulation 2004*,
- b) to the erection of a temporary building.

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

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

**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: D1 (Autotext DD1)

**D.2 Adjoining buildings founded on loose foundation materials**

The *principal contractor* must ensure that a *professional engineer* determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The *professional engineer* (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the *principal contractor* must comply with any reasonable direction of the *professional engineer*.

**Note:** A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

Standard Condition: D6 (Autotext DD6)

**D.3 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:-

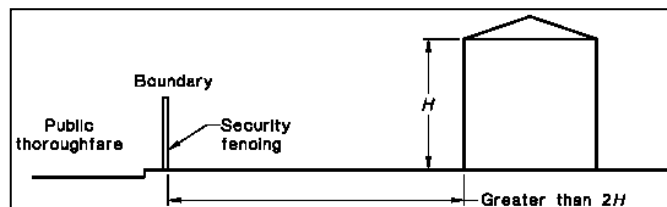
- a) Detail the scope of the works to be completed including details of the various stages, e.g. Demolition, Excavation, Construction etc. and the duration of each stage.
- b) Identify local traffic routes to be used by construction vehicles.
- c) Identify ways to manage construction works to address impacts on local traffic routes.
- d) Identify other developments that may be occurring in the area and identify ways to minimise the cumulative traffic impact of these developments. Should other developments be occurring in close proximity (500m or in the same street) to the subject site, the developer/builder is to liaise fortnightly with the other developers/builders undertaking work in the area in order to minimise the cumulative traffic and parking impacts of the developments.
- e) Detail how construction workers will travel to and from the site and parking arrangements for those that drive.
- f) 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.
- g) Detail the size (including dimensions), numbers and frequency of arrival of the construction vehicles that will service the site for each stage of works.
- h) Provide for the standing of vehicles during construction.
- i) 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.).
- j) 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.).
- k) 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.
- l) 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.
- m) Make provision for all materials, plant, etc. to be stored within the development site at all times during construction.
- n) 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).
- o) Show the location of any proposed excavation and estimated volumes.

- p) 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.
- q) 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).

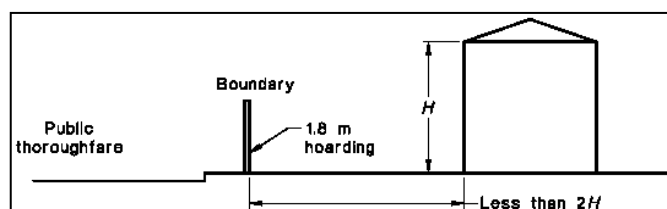
**Note:** A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.  
Standard Condition: D9 (Autotext: DD9)

#### D.4 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.

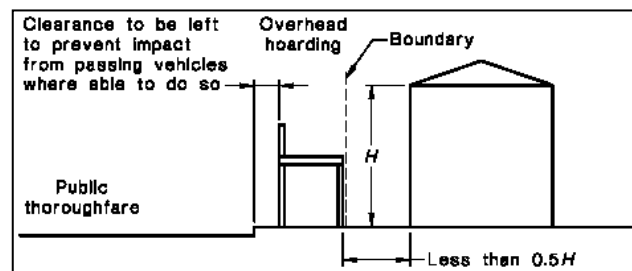


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- 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](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 (Autotext DD11)

## D.5 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 (Autotext DD12)

## **D.6 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 (Autotext DD13)

## 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:

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

Where there is any conflict The Blue Book takes precedence.

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

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

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

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

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

Standard Condition: D14 (Autotext DD14)

## 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](http://www.woollahra.nsw.gov.au).

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

Standard Condition: D15 (Autotext DD15)

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

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

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

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

This condition does not apply:

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



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

**Note:** All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.  
Standard Condition: E1 (Autotext EE1)

## **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 (Autotext EE2)

## **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 (Autotext EE3)

## **E.4 Requirement to notify about new evidence**

- a. 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.
- b. In the unlikely event that historical archaeological remains or deposits are exposed during the works, all work should cease while an evaluation of their potent extent and significance is undertaken and the NSW Heritage Division notified under the requirements of the Heritage Act 1977.

Standard Condition: E4 (Autotext EE4)

## **E.5 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 (Autotext EE5)

## E.6 Hours of Work –Amenity of the neighbourhood

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

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

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

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

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

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

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

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

Standard Condition: E6 (Autotext EE6)

## E.7 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.8 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2015). The replacement tree shall be planted in *deep soil landscaped area* and maintained in a healthy and vigorous condition. If the replacement tree is found to be faulty, damaged, dying or dead before it attains a size whereby it is protected by Council's Tree Preservation Order, it must be replaced with another of the same species which complies with the criteria outlined below.

Species/Type	Planting/Location	Container Size/Size of Tree (at planting)	Minimum Dimensions at Maturity (metres)
1 x <i>Lagerstroemia indica</i> x <i>L. fauriei</i> ('Natchez')	North boundary of new landscape courtyard	200 litre	8 x 6
7 x <i>Acer palmatum</i> 'Senkaki' (Japanese Maple)	South boundary of landscape courtyard	100 litre	6 x 4

The project arborist shall document compliance with the above condition.

## E.9 Level changes in the vicinity of trees

No level changes shall occur within the specified radius from the trunks of the following trees.

Council Ref No.	Species	Radius from Trunk (metres)
145	<i>Ulmus parvifolia</i> (Chinese Elm)	2.5m

The project arborist shall document compliance with the above condition.

## E.10 Hand excavation within tree root zones

Excavation undertaken within the specified radius from the trunks of the following trees shall be hand dug.

Council Ref No.	Species	Radius from Trunk (metres)
145	<i>Ulmus parvifolia</i> (Chinese Elm)	4.7m
181	<i>Araucaria bidwillii</i> (Bunya pine)	4m

Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or in excess of 30mm shall not be severed or damaged unless approved in writing by the project arborist.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

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).

The project arborist shall document compliance with the above condition.

### E.11 Public Footpaths – Safety, Access and Maintenance

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

- Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- Not use the road or footway for the storage of any article, material, matter, waste or thing.
- Not use the road or footway for any *work*.
- Keep the road and footway in good repair free of any trip hazard or obstruction.
- Not stand any plant and equipment upon the road or footway.
- Provide a clear safe pedestrian route a minimum of 1.5m wide.
- Protect heritage listed 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:

- Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- 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 (Autotext EE7)

## E.12 Maintenance of Environmental Controls

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

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

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

Standard Condition: E11

## E.13 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 (Autotext EE12)

## E.14 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 (Autotext EE13)

## E.15 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 (Autotext EE14)

## E.16 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 (Autotext EE15)

### **E.17 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 (Autotext EE17)

### **E.18 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum**

The *Principal Contractor* or *Owner Builder* must ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA's* satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of formwork for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of formwork or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;
- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of formwork and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

**Note:** This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

## E.19 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 (Autotext EE21)

## E.20 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 (Autotext EE22)

## E.21 Dust Mitigation

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

This generally requires:

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

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

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

**Note:** Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.  
Standard Condition: E23 (Autotext EE23)

## **E.22 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 land fill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.  
Standard Condition: E31 (Autotext EE31)

## **E.23 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 (Autotext EE32)

## **E.24 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:

- a) Be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (restricted) Asbestos License,
- b) Be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "*Code of Practice for the Safe Removal of Asbestos*",
- c) No asbestos products may be reused on the site
- d) 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.25 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.26 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.27 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.28 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

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

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

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

**Note:** New building includes an altered portion of, or an extension to, an existing building.  
Standard Condition: F1 (Autotext FF1)

### **F.2 Commissioning and Certification of Systems and Works**

The *principal contractor* or *owner builder* must submit to the satisfaction of the *PCA* works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* confirming that the *works*, as executed and as detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*.

Works-as-executed ("WAE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical/Hydrogeological conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps 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 executed 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 (Autotext FF7)

### F.3 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building’s proposed new use are provided.

**Note:** Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

Standard Condition: F3

### F.4 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

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

No conditions

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

### **H.1 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.2 Removal of Ancillary Works and Structures**

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

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

**Note:** This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.  
Standard Condition: H12 (Autotext HH12)

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

### **I.1 Staff, pupil and boarder numbers**

- c) The existing number of staff, pupils and boarders at Ascham School shall not exceed 255 staff, 1240 students inclusive of 135 boarders (enrolled students).
- d) An annual statement is required to be submitted to Council showing the total number of staff and students enrolled and verifying compliance with the cap imposed.

**Note:** This condition has been imposed to mitigate amenity impacts upon the neighbourhood with regard to on and off-street car parking and traffic movements.

### **I.2 Hours of use**

The hours of use of the proposed new English Centre building is limited to the following:

- a) Monday to Sunday: 7am to 10pm

This condition has been imposed to mitigate amenity impacts upon the neighbourhood.

**Note:** Deliveries to or dispatches from the site must not be made outside these hours. Trading Hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential

dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling than such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.  
Standard Condition: I1

### I.3 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

**Useful links:**

**Community Justice Centres**—free mediation service provided by the NSW Government ([www.cjc.nsw.gov.au](http://www.cjc.nsw.gov.au)).

**Department of Environment and Conservation NSW**, Noise Policy Section web page ([www.environment.nsw.gov.au/noise](http://www.environment.nsw.gov.au/noise)).

**New South Wales Government Legislation** home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)).

**Australian Acoustical Society**—professional society of noise-related professionals ([www.acoustics.asn.au/index.php](http://www.acoustics.asn.au/index.php)).

**Association of Australian Acoustical Consultants**—professional society of noise related professionals ([www.aaac.org.au](http://www.aaac.org.au)).

**Department of Gaming and Racing** - ([www.dgr.nsw.gov.au](http://www.dgr.nsw.gov.au)).

Standard Condition: I50

### I.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  $L_{A90, 15 \text{ minute}}$  level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

**Note:** Words in this condition have the same meaning as in the:

*NSW Industrial Noise Policy* ([http://www.environment.nsw.gov.au/resources/ind\\_noise.pdf](http://www.environment.nsw.gov.au/resources/ind_noise.pdf))  
ISBN 0 7313 2715 2, dated January 2000, and

*Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>)  
ISBN 1741370671, dated December 2004.

Standard Condition: I53

## **I.5 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)**

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

**Note:** *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au).

Standard Condition: I22

## **J. Miscellaneous Conditions**

No conditions

## **K. Advisings**

### **K.1 Criminal Offences – Breach of Development Consent and Environmental laws**

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

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

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

#### Warnings as to potential maximum penalties

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

#### Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order.

This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

**Note:** The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites:

<http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney

General's [www.agd.nsw.gov.au](http://www.agd.nsw.gov.au).

Standard Advising: K1 (Autotext KK1)

## K.2 Dial before you dig



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

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

Standard Advising: K2 (Autotext KK2)

## K.3 Commonwealth Disability Discrimination Act 1992 (“DDA”)

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council’s Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve “unjustifiable hardship”).

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission (“HEROC”):

- a) <http://www.hreoc.gov.au/index.html>
- b) [http://www.hreoc.gov.au/disability\\_rights/dda\\_guide/ins/ins.html](http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html)

If you have any further questions relating to the application of the DDA you can send an email to HEROC at [disabdis@humanrights.gov.au](mailto:disabdis@humanrights.gov.au).

Standard Advising: K3 (Autotext KK3)

## K.4 Builder’s Licences and Owner Builders Permits

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

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder):

<http://www.dft.nsw.gov.au/building.html> .

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

Standard Condition: K5 (Autotext KK5)

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

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

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

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

The Guide can be down loaded from:

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

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

Standard Condition: K6 (Autotext KK6)

## **K.6 Workcover requirements**

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

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

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

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

Standard Condition: K7 (Autotext KK7)

## **K.7 Asbestos Removal, Repair or Disturbance**

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

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

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

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



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

Standard Advising: K8 (Autotext KK8)

## **K.8 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 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 (Autotext KK9)

## **K.9 Appeal**

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr T Wong, Senior Assessment Officer, on (02) 9391 7158

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

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

Standard Condition: K14 (Autotext KK14)

## **K.10 Release of Security**

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

The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is 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/\\_data/assets/pdf\\_file/0004/76405/Refund\\_of\\_Security\\_Form.pdf](http://www.woollahra.nsw.gov.au/_data/assets/pdf_file/0004/76405/Refund_of_Security_Form.pdf)

Standard Condition: K15 (Autotext KK15)

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

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

Standard Condition: K17 (Autotext KK17)

### **K.12 Owner Builders**

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

Standard Condition: K18 (Autotext KK18)

### **K.13 Pruning or Removing a Tree Growing on Private Property**

Woollahra Municipal Council's Development Control Plan (DCP) 2015, Tree Management Chapter E3 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 DCP from Council's website [www.woollahra.nsw.gov.au](http://www.woollahra.nsw.gov.au) or you may contact Council on 9391-7000 for further advice.

Standard Condition: K19 (Autotext KK19)

### **K.14 Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be

disposed of by Council.  
Standard Condition: K21 (Autotext KK21)

## **ANNEXURES**

1. Plans and elevations
2. Referral Response – Technical Services
3. Memorandum – Traffic
4. Referral Response – Trees and landscaping
5. Referral Response – Heritage
6. Referral Response – Environmental Health
7. Referral Response – Fire Safety