

DEVELOPMENT APPLICATION ASSESSMENT REPORT

FILE No.	DA528/2016/1
ADDRESS	13, 13A, 15 and 15A Coolong Road Vacluse
ZONING	R2 Low Density Residential
PROPOSAL	The construction of a dwelling-house, swimming pool, ancillary structures, landscaping and siteworks
COST OF WORKS	\$10,128,095
DATE LODGED	30/11/2016 (original), 09/06/2017 (additional information)
APPLICANT	Corona Projects Pty Ltd
OWNER	Mr L Kamenev
AUTHOR	Mr D Booth
TEAM LEADER	Ms E Smith
SUBMISSIONS	Six
RECOMMENDATION	Conditional approval

1. LOCALITY PLAN



2. LEVEL OF DELEGATION

On 16 June 2017, the Sydney Central Planning Panel advised Council that they had been referred DA528/2016/1 under Clause 10 of Schedule 4A of the *Environmental Planning and Assessment Act*

1979. In accordance with the provisions of Schedule 4A of the *Environmental Planning and Assessment Act 1979 Development for which regional panels may be authorised to exercise consent authority functions of councils*, the Sydney Central Planning Panel is the consent authority with regard to the subject development application, as it involves a cost of works in excess of \$10 million (\$10,128,095) and was not determined by Council within 120 days.

3. RELEVANT HISTORY

DA399/2016/1 for the demolition of dwelling-houses and ancillary structures at 13, 13A, 15 and 15A Coolong Road, excluding the sea wall and jetty on 13A Coolong Road, was approved by under delegated authority on 9 November 2016.

The allotments have been subsequently consolidated into 1 allotment. This occurred in December 2016 as an exempt form of development as advised by the applicant. Council's GIS/ mapping database confirms the consolidated status of the subject land. The applicant has also advised that three of the four existing dwelling-houses (13A, 15 and 15A Coolong Road) have been rendered uninhabitable by the removal of windows, internal furnishings, fixtures and fittings so that only the external shells remain. The property owner currently resides at 13 Coolong Road.

4. PROPOSAL

The proposal involves the construction of a dwelling-house consisting of:

- 2 storeys in relation to the western half and 1-3 storeys in relation to the eastern half;
- the proposal will present a predominantly 2 storey form to the street (south) and 3 storeys to the harbour (north);
- hipped roof forms to the western and central sections and flat roof forms to the eastern section;
- three roof skylights are proposed;
- a two storey guest wing is proposed to the western side elevation consisting of a living room and bedroom at ground floor level and two bedrooms at first floor level;
- a single storey conservatory is proposed to the eastern side elevation at ground floor level;
- a large garage is proposed to the eastern section of lower ground floor level accessed via a vehicular entrance to the eastern side elevation and driveway adjacent to the eastern side boundary;
- the remainder of the lower ground floor level consists of predominantly non-habitable rooms such as laundry, gymnasium, steamer, plant rooms, storage and bathrooms although a bedroom is proposed to the extreme south-eastern corner adjacent to the garage;
- the ground floor level predominantly contains the living areas;
- the first floor level predominantly contains the bedrooms;
- a swimming pool is proposed adjacent to the north-eastern section of the lower ground floor level;
- a rotunda is proposed to be north-eastern corner of a large northern, harbour-front) terrace at ground floor level;
- 2 relatively small semicircular balconies are proposed to the northern (harbour-front) elevation at first floor level;
- a 1.8m high palisade front fence is proposed;
- landscaping works involving the removal of small trees and exempt species with the most significant trees retained and extensive replacement planting; and
- extensive excavation works.

On 9 June 2017, additional survey information and details of the adjoining development to the east (11 Coolong Rd) were submitted to Council.

5. EXECUTIVE SUMMARY

Issue	Conclusion	Section
Objectors' concerns including loss of views, privacy impacts and adverse visual impacts	Objectors' concerns have been addressed as far as is considered to be reasonable by the deletion of the hipped roof forms to reduce private view loss and visual impacts upon the locality (see recommended Condition C.1a) and the provision of privacy screening to the eastern sides of the proposed terraces/ rotunda at ground floor and lower ground floor levels (see recommended Condition C.1b).	8.1
Loss of an identified significant public view from Nurran Road	This impact is considered to be inevitable and will be compensated for in part by a gain of a public view via the substantial eastern side setback, subject to a restriction on the height of the landscaping thereto (see recommended Condition C.1f).	14.1 & 14.2
Front boundary setback non-compliance	Satisfactory due to the absence of any significant adverse environmental impacts.	14.2
External wall height/ inclined plane non-compliance	Satisfactory due to the underlying objectives of the control being achieved.	14.2
Unarticulated wall length non-compliances	Satisfactory due to the absence of any significant adverse environmental impacts.	14.2
Front fence height non-compliance	Satisfactory, as the fence is sufficiently open in design and is compatible with the height of other front fencing in the locality.	14.2
Elevated swimming pool surround non-compliance	Satisfactory, subject to the pool surround wall being required to be clad with sandstone (see recommended Condition C.1h).	14.2
Excavation volume and setback non-compliances	Satisfactory, subject to geotechnical/hydrogeological and construction management related conditions on the basis that the non-compliant volume will be utilised as fill on-site, without any adverse amenity impacts.	14.2
Off-street car parking provision exceeds Council's maximum requirement	Satisfactory due to the absence of any significant adverse environmental impacts, subject to geotechnical/hydrogeological and construction management related conditions.	14.3

6. SITE AND LOCALITY

The subject consolidated involves:

- a 70.4m southern frontage to Coolong Avenue;
- a 91.73m staggered western side boundary to the adjoining property 15B Coolong Road which is occupied by a 2 storey dwelling-house;
- an 81.9m eastern side boundary to 11 Coolong Road which is occupied by a 2-3 storey dwelling-house;
- a 44.4m northern, harbour-frontage;
- an area of 4134m²; and
- topographical falls of approximately 10m from the street frontage to the rear, harbour-front section of the site and 2-2.5m from the western side to the eastern side of the site.

The locality is predominantly characterised by 2-3 storey detached dwelling-houses.

7. REFERRALS

Referral	Summary of Comment	Annexure
Development Engineer	Satisfactory, subject to conditions	3

Referral	Summary of Comment	Annexure
Tree and Landscape Officer	Satisfactory, subject to conditions	4
Urban Design Officer	Unsatisfactory, due to excessive bulk and scale, excessive height due to pitched roof forms and loss of public views.	5

ENVIRONMENTAL ASSESSMENT UNDER SECTION 79C

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

1. The provisions of any environmental planning instrument
2. The provisions of any proposed instrument that is/has been the subject of public consultation
3. The provisions of any development control plan
4. Any planning agreement that has been entered into
5. Any draft planning agreement that a developer has offered to enter into
6. The regulations
7. Any coastal zone management plan
8. The likely impacts of that development:
 - i) Environmental impacts on the natural and built environments
 - ii) Social and economic impacts
9. The suitability of the site
10. Any submissions
11. The public interest

8. ADVERTISING AND NOTIFICATION

8.1. Submissions

In accordance with the relevant provisions of Woollahra DCP 2015, the original application was advertised and notified between 14/12/2016 and 11/01/2017 and was subsequently re-notified between 16/06/2017 and 30/06/2017 due to the submission of additional survey information and details of the adjoining development to the east (11 Coolong Road).

Submissions/ objections were received from the owners/ representatives of six adjoining/ nearby properties as follows:

1. **A & J Bathgate owners of 1 Nurran Road, Vacluse 2030;**
2. **S de Soysa owner of 30-32 Coolong Road, Vacluse 2030 and consultants M Pickrell of MPD Architects 5a Dalrymple Avenue Lane Cove 2066, P Bu of GM Urban Design and Architecture Studio 803, Level 8, 75 Miller Street, North Sydney 2060 and C Drury of Sparke Helmore Lawyers PO Box Q1164, QVB Post Office, Sydney 1230;**
3. **D Kingston of K Capital Group Level 25, Aurora Place, 88 Phillip Street, Sydney 2000, owner of 28 Coolong Road, Vacluse 2030 and consultant P Bu of GM Urban Design and Architecture Studio 803, Level 8, 75 Miller Street, North Sydney 2060 and C Drury of Sparke Helmore Lawyers PO Box Q1164, QVB Post Office, Sydney 1230;**
4. **V Alcaine owner of 5 Greycliffe Avenue, Vacluse 2030;**
5. **J Mead of Planning Ingenuity, Suite 210, 531-533 Kingsway, Miranda 2228 on behalf of A & M Moss, owners of 11 Coolong Road, Vacluse 2030; and**
6. **P Harris on behalf of K Harris, owner of 26 Coolong Road, Vacluse 2030.**

The objectors raised the following concerns:

- *The computer-generated view analysis submitted with the development application is inaccurate and should not be relied upon.*

The computer-generated view analysis submitted with the development application has not been relied upon for the assessment of private view loss. Independent view loss inspections of affected properties were conducted by the author of this report, the photographs taken were emailed to the applicant for analysis, as deemed necessary, and these images have been utilised in this assessment report.

- *The accuracy of this second view analysis is questioned*

The photographs taken during site inspections conducted by the author of this report were taken using a standard camera on standard settings from standing and seated positions. Adjustments were made as necessary to approximate the eye level of the various owners of the inspected properties. The photographs were taken in the company of the property owners and every attempt was made to photograph the views from the most significant vantage points of the affected properties so as not to underestimate the significance of the views potentially affected.

The view analyses was conducted by a professional architectural firm and there is no reason to question their accuracy/ there is no evidence of inaccuracies. View analyses generally provide an approximate guide to the extent view loss which by its nature is dependent upon a number of variables including location and eye level of the observer.

- *Loss of private and public views. Loss of views should be mitigated via a more skillful design including the deletion of the pitched roof forms, the reduction of floor-to-ceiling heights from 3.9m at ground floor level & 3.4m at first floor level to 3.1m (a 1.1m overall reduction), lowering the overall height via additional excavation, the relocation of the development toward the north/harbour-front which is justified by the front setback non-compliance, the reduction to the building width, the utilisation of a more transparent connecting bridge to the western wing, the provision of a glass roof to the conservatory, swapping the location of the eastern conservatory with the western guest wing, the deletion of the first floor level central void and the transfer of floor area from the first floor level to the ground floor and lower ground floor levels.*

The proposal is considered to be satisfactory in terms of impacts on private views, subject to the deletion of the hipped roof forms (see recommended **Condition C.1a**). Further design amendments are considered to be unjustifiable on the basis of the height compliant nature of the proposal. Whilst the south-western corner of the proposal does not comply with Council's minimum setback requirement, this is due to the shape of the allotment and it is considered that the non-compliance does not have any significant impact upon the private views of adjoining properties.

The obstruction of the majority of the harbour view from Nurran Road, identified as significant under the provisions of the Vaucuse West Precinct section of Woollahra DCP 2015, is considered to be reasonable on the basis that:

- the view is primarily obtained between and over 2 existing dwelling-houses at 13 & 15 Coolong Road that have been approved for demolition under DA399/2016 and these sites have been amalgamated into the existing single allotment;
- it is the central section of the proposed building, located in the central section of the consolidated site and that is essentially compliant with Council's building envelope controls that will obstruct the view;

- the view loss will be compensated in part by a gain of a public view in the vicinity of the Coolong/ Nurrann Road intersection via the substantial eastern side setback, subject to restrictions being placed on the height of the landscaping thereto (see recommended **Condition C.1f**); and
- excellent public harbour views are obtained nearby from Nielsen Park and Wentworth Park and adjoining sections of Coolong and Wentworth Roads which are identified as significant public views under the provisions of the Vaucuse West Precinct section of Woollahra DCP 2015.

The capture of a public harbour view is not possible via the substantial western side setback due to the staggered alignment of the western side boundary and the existence of a two storey dwelling-house with hipped roof form on the adjoining property to the west (15B Coolong Road).

These issues are discussed in greater depth under section 14.2 *Chapter B3: General Development Controls Part 3.5.3: Public and Private Views*.

- *The accuracy of the determination and documentation of existing ground level is questioned. Two additional longitudinal sections are requested; 2m from the front and rear elevations respectively. More detailed survey information should be submitted. The proposal exceeds Council's height standard.*

Detailed survey plans were submitted to Council on 9 June 2017. The determination and documentation of the existing ground level is considered to be adequate and accurate.

Two proposed chimneys and 2 decorative architectural roof features extend above Council's 9.5m height plane.

Whilst chimneys are expressly excluded from the definition of *building height*, it is considered that sufficient doubt exists that the decorative architectural roof features are excluded to warrant their deletion in the absence of a Clause 4.6 written statement to vary the standard. The uncertainty is based upon the fact that all of the excluded elements have a practical function whereas the subject non-compliant decorative architectural roof features are purely aesthetic. Accordingly, it is recommended that they be deleted. In order to prevent any consequential architectural disharmony, it is considered that all of the remaining decorative architectural roof features should be deleted (see recommended **Condition C.1c**).

This issue is discussed in further depth under the section 13.3 *Part 4.3: Height of Buildings*.

- *Inadequate consultation between applicant/ owner and the owners of adjoining properties in terms of the submitted plans.*

This is not a legal requirement.

- *Excessive bulk and scale/ incompatibility with the built context and character of the locality/ the proposal does not step down the site adequately*

Council's Urban Design Officer has also raised a concern that the proposal will present excessive bulk and scale to the harbour frontage and has recommended that any approval of the proposal should be subject to the deletion of the hipped roof forms. As discussed above, the deletion of the hipped

roof forms (see recommended **Condition C.1a**), is recommended primarily to reduce loss of private views without unreasonably limiting the development potential of the site.

The proposal is considered to be satisfactory in terms of its visual impact upon the locality. This issue is discussed in greater depth under sections *14.1 Chapter B.1 Vacluse West Precinct Controls & 14.2 Chapter B3: General Development Controls*.

- *Traffic Management concerns associated with work-related vehicles impacting upon on-street car parking availability and pedestrian safety.*

Council's Development Engineer has recommended conditions which adequately address construction management and pedestrian safety issues.

- *Vehicular noise and headlight impacts upon bedrooms within the adjoining dwelling-house to the east (11 Coolong Road). It is requested that the garage entrance be relocated from the eastern side elevation to the front elevation so as to reduce vehicular noise and headlight spillage impacts.*

This design amendment request was discussed with Council's Development Engineer on 21 July 2017 who advised that it is not possible due to a maximum average gradient of approximately 33% which exceeds the maximum permissible average of approximately 25%. The level of the garage would have to be raised in order to achieve an appropriate gradient.

It is considered that a redesign of the garage and driveway is not justifiable on the basis of the relatively infrequent vehicular movements associated with a dwelling-house development. Furthermore, the driveway slopes downwards into the site and will be screened by the existing eastern boundary wall.

- *The proposed gazebo to be north-eastern corner of the northern, harbour-front terrace at ground floor level exceeds the permissible height for ancillary structures/ overlooking from the proposed rear, harbour-front terraces at ground floor and lower ground floor levels to the rear, harbour-front private open space areas of 11 Coolong Road.*

As the gazebo/ rotunda is attached to the harbour-front terrace at ground floor level, it is considered that the structure forms part of the dwelling-house and is not an ancillary structure.

Concerns relating to the potential for overlooking from the proposed rear, harbour-front terraces at ground floor and lower ground floor levels to the rear, harbour-front private open space areas of 11 Coolong Road are concurred with and are addressed by recommended **Condition C.1b** in terms of requiring the provision of privacy screening to the eastern sides of the terraces/ rotunda.

- *Inadequate documentation of the adjoining development to the east (11 Coolong Rd)*

On 9 June 2017, additional survey information and details of the adjoining development to the east (11 Coolong Rd) were submitted to Council. The proposal is considered to be satisfactory in terms of documentation.

8.2. Statutory Declaration

The applicant has completed a statutory declaration that the site notice was erected and maintained during the notification period in accordance with the relevant provisions of Woollahra DCP 2015.

9. SEPP (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

SEPP (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate 775259S committing to environmental sustainability measures. These requirements have been imposed by conditions as required by clause 97A of the *Environmental Planning & Assessment Regulation 2000*.

10. SEPP 55–REMEDICATION OF LAND

As required Under Clause 7 (1) (a) of SEPP 55-Remediation of Land, consideration has been given as to whether the land is contaminated. In the absence of any information indicating the potential contamination of the site, further consideration of this issue is not warranted in this instance.

11. SREP (SYDNEY HARBOUR CATCHMENT) 2005 AND ACCOMPANYING DCP

The relevant provisions of this instrument and the accompanying DCP for SREP (Sydney Harbour Catchment) 2005 require Council to consider the visual and environmental impact that a development proposal will have upon Sydney Harbour and adjoining foreshore areas and the likely impact upon available views to and from Sydney Harbour.

It is considered that the proposal will be compatible with the scale and character of the local built environment, will not have any significant adverse visual impacts upon Sydney Harbour and adjoining foreshore areas and will not have any unreasonable adverse impacts upon views to or from Sydney Harbour subject to the deletion of the hipped roof forms (see recommended **Condition C.1a**) in order to adequately mitigate private view loss and the visual impact of the development and the cladding of the above-ground, curved section of the pool surround/ pool terrace in sandstone (see recommended **Condition C.1h**).

12. DRAFT SEPP (COASTAL MANAGEMENT) 2016

The provisions of draft planning instrument that are relevant to the subject application involve managing development in the coastal zone and protecting the environmental assets of the coast.

It is considered that the proposal will not have any significant adverse environmental impact upon the harbour coastal locality and therefore satisfactory with regard to the relevant provisions of the draft planning instrument.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1. Part 1.2: Aims of Plan

The proposal, as conditioned, is considered to be consistent with the aims in Part 1.2(2) of Woollahra LEP 2014.

13.2. Land Use Table

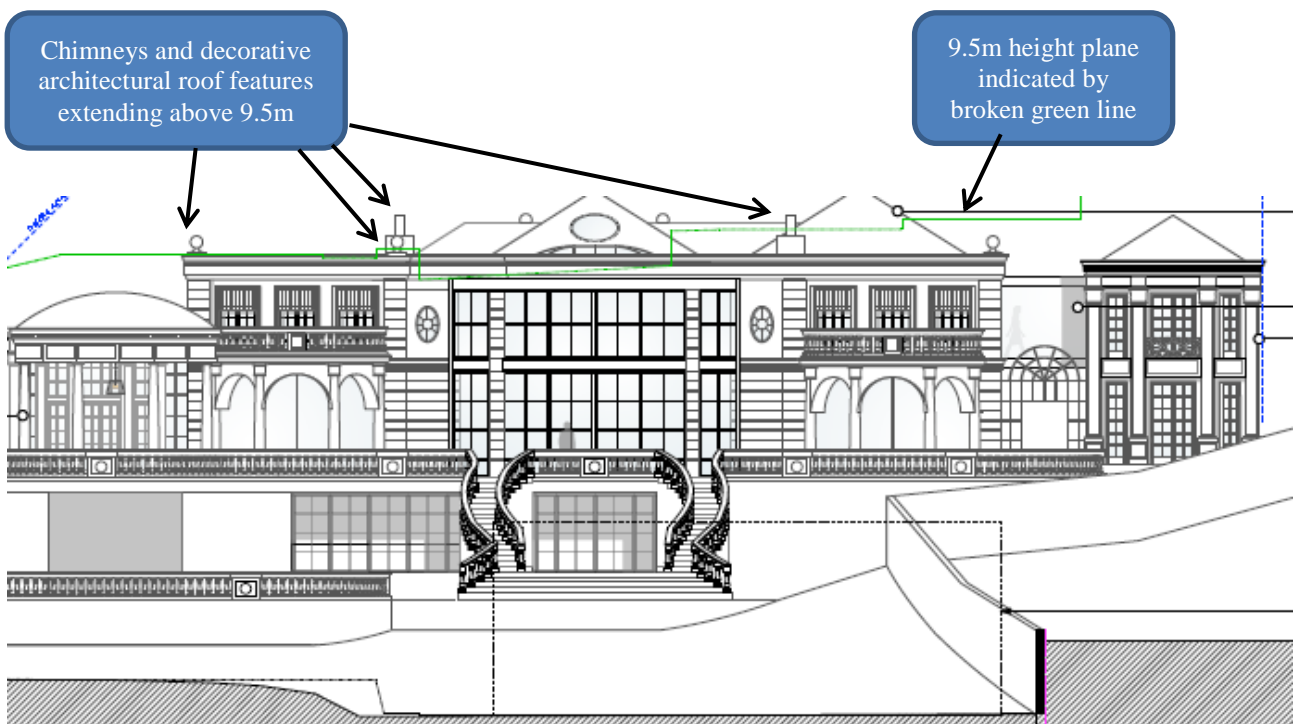
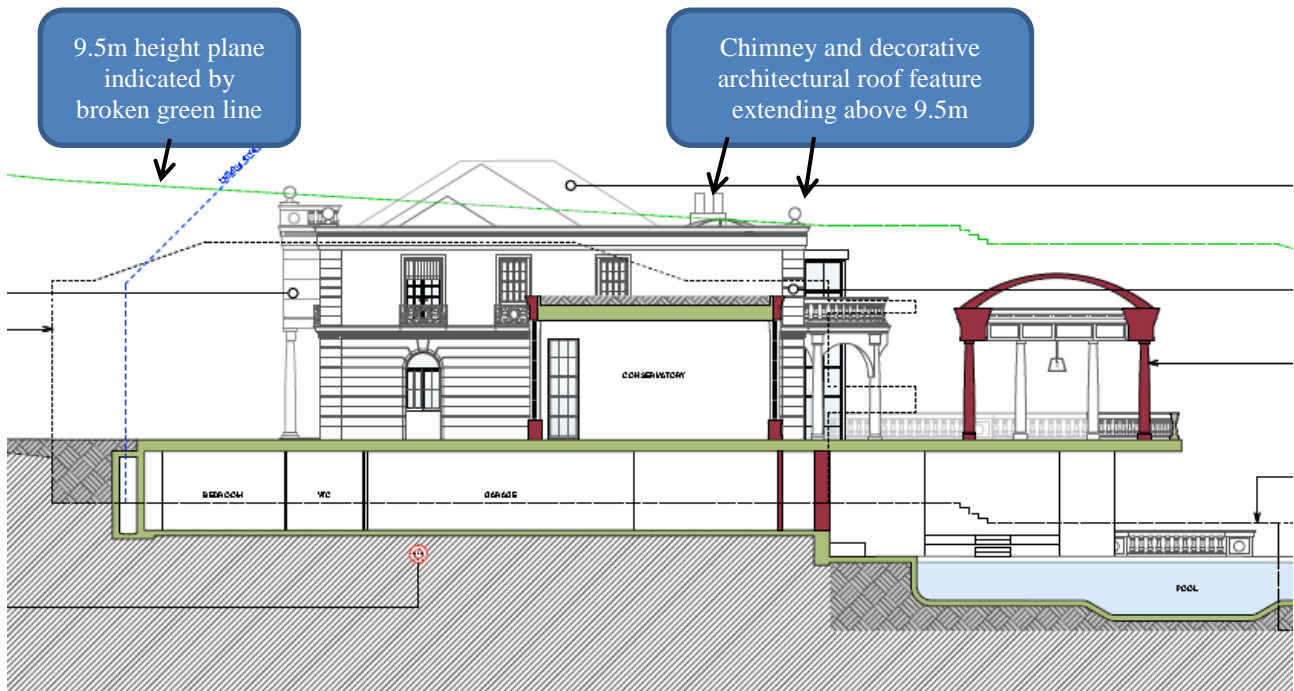
The proposal relates to a dwelling-house use which is permissible and as conditioned, is considered to be consistent with the objectives of the R2 Low Density Residential zone.

13.3. Part 4.3: Height of Buildings

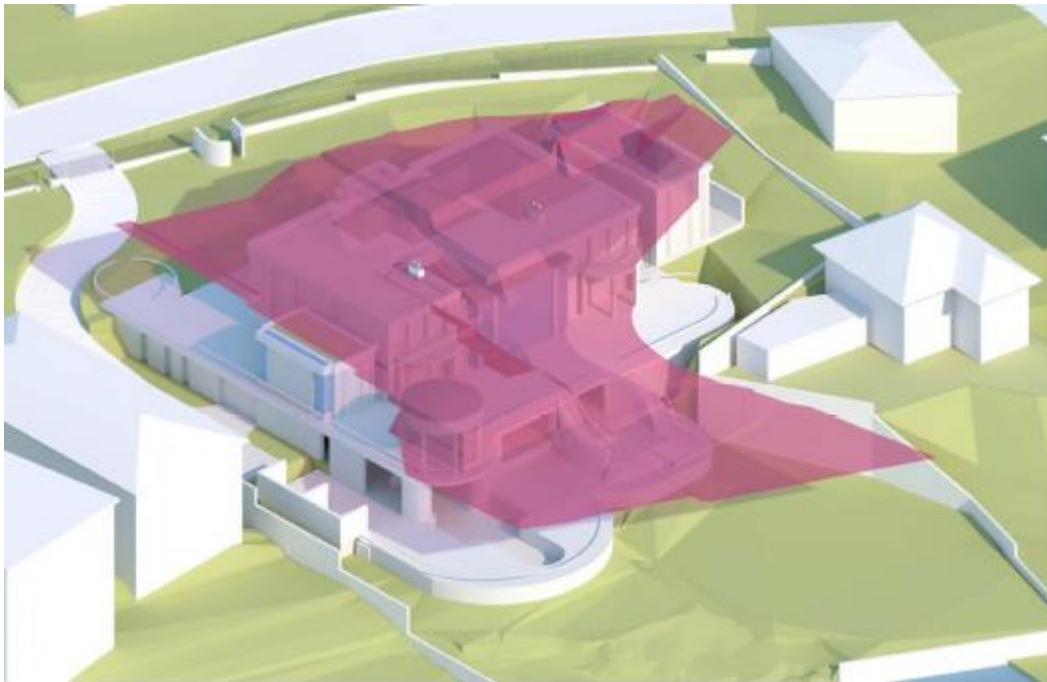
	Proposal	Control	Complies
Maximum Building Height (m)	10.1	9.5	YES (subject to Condition C.1c)

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

Concerns have been raised by objectors to the proposal that it involves breaches of Council’s 9.5m height development standard. In this regard, 2 proposed chimneys and 2 decorative architectural roof features extend above the 9.5m height plane as indicated in the diagrams below.



The image below indicates 2 chimneys protruding above the 9.5 m high plane but not the 2 decorative architectural roof features.



Whilst chimneys are expressly excluded from the following definition of *building height*, it is considered that sufficient doubt exists that the decorative architectural roof features are excluded to warrant their deletion in the absence of a Clause 4.6 written statement to vary the development standard. The uncertainty is based upon the fact that all of the excluded elements have a practical function whereas the subject non-compliant decorative architectural roof features are purely aesthetic. Accordingly, it is recommended that they be deleted. In order to prevent any consequential architectural disharmony, it is considered that all of the remaining decorative architectural roof features should be deleted (see recommended **Condition C.1c**).

building height (or height of building) means:

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,*

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Whilst the following standard instrument provisions would permit the subject non-compliant decorative architectural roof features, they were not adopted as per Part 5.6 of Woollahra LEP 2014.

STANDARD INSTRUMENT--PRINCIPAL LOCAL ENVIRONMENTAL PLAN - REG 5.6

5.6 Architectural roof features [optional]

(1) *The objectives of this clause are as follows:*

- (a) *[set out objectives of the clause]*
- (2) *Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.*
- (3) *Development consent must not be granted to any such development unless the consent authority is satisfied that:*
- (a) *the architectural roof feature:*
- (i) *comprises a decorative element on the uppermost portion of a building, and*
(ii) *is not an advertising structure, and*
(iii) *does not include floor space area and is not reasonably capable of modification to include floor space area, and*
(iv) *will cause minimal overshadowing, and*
- (b) *any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.*

Subject to **Condition C.1c**, the proposal is considered to be fully compliant with Council's 9.5m height development standard.

13.4. 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.

In this regard, Council's Tree & Landscape Officer's referral response states:

In terms of tree management and landscaping the above development proposal includes the retention of the most significant trees located across the four subject properties in terms of streetscape. Additionally all trees located within the Council verge in front of the subject properties are proposed for retention. Existing trees proposed for removal in the submitted Arboricultural Impact Assessment Report are either small in size or exempt from Council's Tree Management provisions of Woollahra DCP 2015.

The submitted landscape plan proposes extensive replacement tree planting of super advanced size.

The proposal, as conditioned, is considered to be acceptable with regard to Part 5.9 of the Woollahra LEP 2014.

13.5. Part 5.10: Heritage Conservation

Parts 5.10(2) and 5.10(4) require Council to consider the effect of works proposed to a heritage item, building, work, relic or tree, within a heritage conservation area or new buildings or subdivision in a conservation area or where a heritage item is located.

The subject site is not affected by any heritage status and the proposal is considered to be satisfactory with regard to the provisions of Part 5.10 of Woollahra LEP 2014.

13.6. Part 6.1: Acid Sulfate Soils

Part 6.1 requires Council to consider any potential acid sulfate soil affectation so that it does not disturb, expose or drain acid sulfate soils and cause environmental damage. The subject site is within a Class 5 area as specified in the Acid Sulfate Soils Map. However, the subject works will not lower the water table below 1m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, the proposal is considered to be acceptable with regard to Part 6.1.

13.7. 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 approximately 1584m³ of excavation overall of which 607m³ is proposed as fill. The net 977m³ of excavated material would involve approximately 122 truckloads assuming 8m³ per truckload on average (as advised by Council's engineers).

Recommended **Condition C.1i** is designed to ensure that the claimed 607m³ of excavated material is utilised as fill on site.

Council's Development Engineer has raised no objection to the extent of excavation in terms of the capacity of the local road network to accommodate the truck movements associated with the proposed excavation. In terms of ESD principles, the extent of material proposed to be 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 Preliminary Geotechnical Investigation Report, prepared by Aargus Pty Ltd, referenced GS6705-1B, dated 8 May 2017 has been submitted reviewed. The proposal involved excavation of approximately 3.2m to achieve the proposed lower ground level (RL 7.20m).

Although borehole drilling has not been carried out, the report indicates that based on the local experience and adjacent groundwater well information, observation made during the site work during inspection and DCP test results, the following inferred subsurface conditions are identified:

- a) Filling to depth 1.5m*
- b) Sandy or Silty Clay to depths between 0.2m and 2.5m*
- c) Sandstone bedrock*

For groundwater, the report also indicates the following:

Based on the site walkover inspection, groundwater is inferred to be shallow and at sea level within the northern portion and it will be deeper within the southern portion. According to the Office of Water, NSW (Reference 3), standing groundwater may find at approximately 9.2m AHD. The report made comments and recommendations on the following:

- Excavation conditions*
- Vibration Control*
- Stability of Basement Excavation*
- Earth Pressure*
- Foundation*
- Groundwater Management*
- Additional Geotechnical Investigation*

The following is noted from the report:

Section 6.2

Geotechnical site investigation by borehole drilling together with rock coring would therefore be required to confirm the inferred underlying subsurface profiles, the strengths and degree of weathering of the soils and rock horizons as well as configuration of any bedding and defects that may be present in the rock horizons.

Section 7.5

*It should be noted that the parameters in Tables 4 (**Typical Geotechnical Design Parameters for Retaining Walls**) and 5 (**Typical Coefficients of Lateral Earth Pressure**) should not be used for design purposes until confirmation can be obtained from borehole drilling at the site*

Section 7.7

The results of the geotechnical desktop study and publically available information indicate that the natural groundwater levels may be present within this site in the form of seepage through the residual soils and/or defects in Sandstone bedrock.

It should be noted that groundwater levels may be associated with the adjacent sea level and could therefore vary as a result of tidal ranges and enter the excavation as rapid seepage depending on the shoring system adopted.

It would therefore be prudent to give consideration to suitable shoring methods and precautionary drainage measures in the design and construction of the proposed development. It should also be noted that groundwater behaviour may be influenced by the seasonal variations in groundwater level resulting from heavy rainfall, flooding, damaged services, etc.

Council's Technical Services generally has no objection to the proposed works on technical grounds subject to the following:

- 1. The proposed lower ground floor level shall be fully tanked to ensure permanent dewatering is not required.*
- 2. Prior to the issue of construction certificate, further geotechnical investigation shall be prepared and undertaken by a Geotechnical Engineer familiar with the contents of this report. The further geotechnical investigation report shall consist of the following:*
 - a) At least three (3) boreholes extending approximately 2m below proposed bulk excavation level shall be carried out, in order to confirm the inferred underlying subsurface profiles, the strengths and degree of weathering of the soils and rock horizons as well as configuration of any bedding and defects that may be present in the rock horizons.*
 - b) A piezometer shall be installed in the borehole to assess the expected groundwater conditions during excavation in order to determine the suitable shoring methods and precautionary drainage measures in the design and construction of the proposed development.*

Subject to the imposition of 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 Works Zone;
- the preparation of dilapidation reports in relation to adjoining development; 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.

Council's Tree and Landscape Officer has raised no objection to the proposed excavation in terms of impacts upon existing significant trees, subject to conditions.

Council's Heritage Officer has raised no objection to the proposal on the basis of heritage related impacts including disturbance of relics.

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part 6.2 of the Woollahra LEP 2014.

13.8. 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.

The subject site is not located within the identified flood planning areas on Council's mapping /GIS system and accordingly, the proposal is considered to be acceptable with regard to the provisions of Part 6.3 of Woollahra LEP 2014.

13.9. Part 6.4: Limited Development on Foreshore Area

	Proposal	Control	Complies
Foreshore building line (m)	Min 13.8	12	YES

The provisions of Part 6.4 (2) state:

Development consent must not be granted for development on land in foreshore area 12 unless the development is for the purposes of:

- (a) the extension, alteration or rebuilding of an existing building that is wholly or partly in foreshore area 12, or*
- (b) a boat shed, sea retaining wall, wharf, slipway, jetty, waterway access stairs, swimming pool or fence.*

The proposal is considered to be acceptable with regard to Part 6.4 of Woollahra LEP 2014.

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1. Chapter B1: Vacluse West Residential Precinct

The general objectives of the residential precinct controls are:

- O1 To ensure development reflects the desired future character of the precinct.*
- O2 To preserve the significant features of individual precincts which contribute to their unique character.*
- O3 To ensure that the design and siting of development suitably responds to the surrounding built form and natural features.*
- O4 To limit impacts on the amenity of adjoining and adjacent development.*
- O5 To ensure the preservation of significant view corridors and ridgelines.*
- O6 To retain and reinforce tree canopies and landscape qualities.*
- O7 To ensure that streetscape and scenic quality is preserved.*

The desired future character objectives of the Vacluse West precinct are as follows:

- O1 To respect and enhance the streetscape character and key elements of the precinct.*
- O2 To retain the scenic qualities provided by the dramatic topography and natural vegetation that provide an attractive setting on Sydney Harbour.*

- O3 To maintain the evolution of residential building styles through the introduction of good contemporary buildings incorporating modulation and a varied palette of materials.*
- O4 To minimise building bulk and scale of three storey development by designing development to generally present as a two storey form to the street.*
- O5 To design and site buildings to respond to the topography and minimise cut and fill.*
- O6 To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*
- O7 To reinforce the landscape setting and maintain the existing tree canopy.*
- O8 To retain and reinforce the green setting of mature street trees, private trees and garden plantings.*

Streetscape character and key elements of the Vaocluse West precinct:

Development respects and enhances the existing elements of the neighbourhood character that contribute to the precinct including:

- a) the relationship of the precinct to the harbour;*
- b) the rich mixture of architectural styles, and the emphasis on their connection to the landform;*
- c) buildings set within highly visible gardens;*
- d) buildings addressing the street; and*
- e) the harbour and iconic views available from the streets of the precinct, including view corridors between buildings.*

Council's Urban Design Officer has provided the following comments/ criticisms in relation to the the proposal:

1. Loss of Public Views

The following extract from the desired future character statement for the Vaocluse West precinct (B1.10.2 of Woollahra DCP 2015) states that ...development is to retain views of the harbour from public spaces...

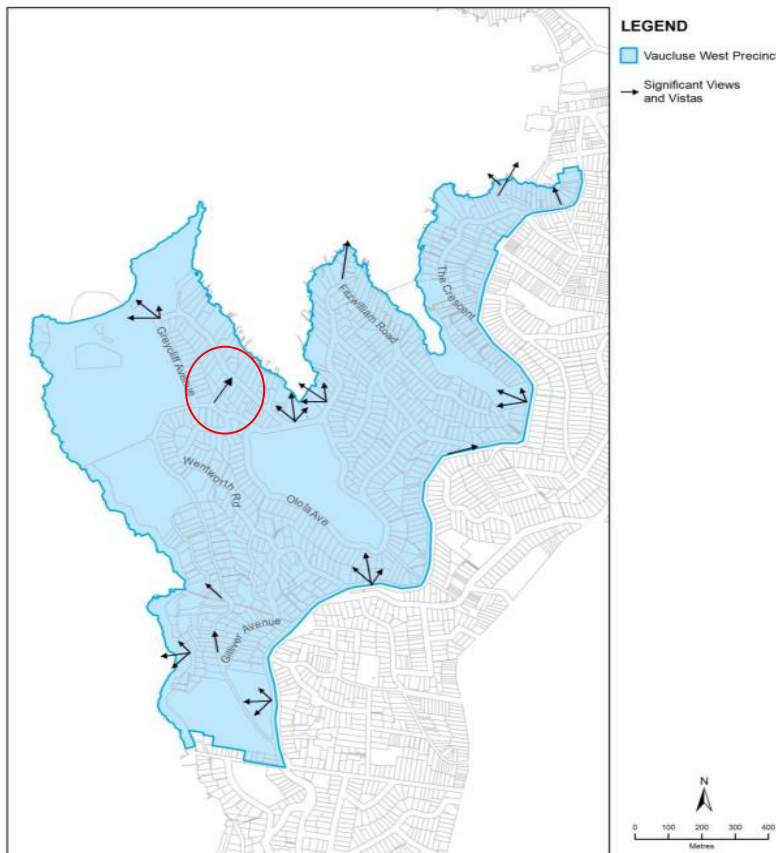
Vaocluse West Precinct desired future character Objective O6 states:

- O6 To protect important views from the public spaces of the precinct to the harbour and the city skyline including view corridors between buildings.*

The proposed building on the amalgamated site will block views of the harbour that are currently seen through view corridors between buildings. This view down Nurran Road to the north-east is identified on the precinct map as a significant view (refer to MAP 10 from Woollahra DCP 2015 below - the circle has been added.

B1.10 Vaucluse West Precinct

MAP 10 Vaucluse West Precinct



2. Visual Impacts/ Design concerns

The following extract from the Vaucluse West precinct character statement suggests three level development with a flat roof is acceptable:

B1.10.1 Precinct character statement

...Recent development has tended to take the form of three storey dwelling houses with flat roof designs...

The proposal is for a three storey building, but has a pitched roof.

The following extract from the desired future character statement for the precinct states that:

The built form should not detract from the unique features of the natural landscape, or be of such a scale that it dominates adjoining development, or is visually intrusive when viewed from the streetscape or the harbour.

The building is, from an urban design perspective, considered to be of such a scale that it dominates adjoining development and is visually intrusive when viewed from the harbour. Section B3.1.3 of Woollahra DCP 2015 general controls contain the following objective:

- O2 To ensure that the form and scale of development is not excessive and maintains the continuity of building forms.*

This building does not maintain the continuity of building forms and might well be considered to be excessive in form and scale. As such, it is considered that the proposal does not fulfil this objective.

3. Conclusion

The over-arching concern from an urban design perspective is that the scale of this development changes the character of the location. The controls generally aim to retain the existing character, while providing development potential. This building that amalgamates four lots allows the construction of a building that is on a significantly bigger scale than its neighbours.

The proposed building doesn't attempt to mitigate this contrast in scale or relate to the particular environment within which it sits. Rather the building's symmetry and style promotes its own grandeur and denies any contextual relation to its unique harbour side setting. This is in my opinion a missed opportunity and does not fulfil the following objective the precinct as it is not a contemporary building:

O4 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings incorporating modulation and a varied palette of materials.

It is however debatable whether it is reasonable for Council to dictate the architectural style an applicant uses.

The building does block views of the Harbour from public space. The pitched roofs which seem an unnecessary component of the design could be removed. This amendment would enable the proposal to both retain more of the view from the public realm and largely comply with the height limit.

4. Recommendation

From an urban design perspective this application should be refused since it does not fulfil the desired future character objectives for the location. If it is determined that the building be approved, I would suggest the pitched roofs be removed.

With regard to the above-mentioned concerns, the following comments are provided:

Loss of public views

The obstruction of the majority of the harbour view from Nurran Road, identified as significant under the provisions of the Vaucuse West Precinct section of Woollahra DCP 2015, is considered to be reasonable on the basis that:

- the view is primarily obtained between and over 2 existing dwelling-houses at 13 & 15 Coolong Road that have been approved for demolition under DA399/2016 and these sites have been amalgamated into the existing single allotment;
- it is the central section of the proposed building, located in the central section of the consolidated site and that is essentially compliant with Council's building envelope controls that will obstruct the view; and

- the view loss will be compensated in part by a gain of a public view in the vicinity of the Coolong/ Nurrans Road intersection via the substantial eastern side setback, subject to restrictions being placed on the height of the landscaping thereto (see recommended **Condition C.1f**; and
- excellent public harbour views are obtained nearby from Nielsen Park and Wentworth Park and adjoining sections of Coolong and Wentworth Roads which are identified as significant public views under the provisions of the Vaucuse West Precinct section of Woollahra DCP 2015.

The capture of a public harbour view is not possible via the substantial western side setback due to the staggered alignment of the western side boundary and the existence of a two storey dwelling-house with hipped roof form on the adjoining property to the west (15B Coolong Road).

This issue is discussed in greater depth under section 14.2 Chapter B3: General Development Controls Part 3.5.3: Public and Private Views.

Visual impacts/ design concerns

Whilst the scale of the proposed dwelling-house is substantial, the proposal does involve a 4134m² allotment of land which previously constituted four separate dwelling-house occupied allotments. It should be noted that the floorplate of the proposal is approximately 1095m² less than that permitted. In this regard, control B3.3 C1 limits the floorplate area to a maximum of 165% of the buildable area whilst the proposal equates to a floorplate area which is approximately 98% of the buildable area.

The visual impact of the large-scale dwelling-house proposal is considered to be adequately mitigated by a form that is sufficiently modulated and recessive and which incorporates adequate facade articulation, an adequately varied palette of materials including stone, bronze, timber and glass complemented by adequate landscaping elements.

The recommendation of Council's Urban Design Officer that any approval of the proposal should be subject to the deletion of the proposed hipped roof forms, in order to reduce the scale of the proposal, is achieved by recommended **Condition C.1a**.

The Vaucuse West precinct character statement identifies that the precinct as being:

..a low density residential precinct characterised by large dwelling houses. Though the architectural styles and forms vary, these dwelling-houses are generally located within a garden setting and have common street setbacks and side setbacks that allow for views between buildings. Recent development has tended to take the form of three storey dwelling houses with flat roof designs.

It is considered that the scale and design of the proposal is compatible with the local built context, the above-mentioned precinct character statement and that the visual amenity of the locality including the harbour and streetscape will not be significantly adversely affected. In this regard, the photomontages below depict the three storey, northern component of the development proposal as presented to the harbour:

Existing



Proposed



14.2. Chapter B3: General Development Controls

The objectives of the general development controls are:

- O1 To facilitate housing in a way that reflects desired future character objectives for the residential precincts and neighbourhood heritage conservation areas.*
- O2 To ensure that the form and scale of development is not excessive and maintains the continuity of building forms.*
- O3 To conserve the natural, built and cultural significance of identified heritage items and heritage conservation areas.*
- O4 To facilitate flexibility and innovation in design while ensuring sympathetic and well mannered development.*
- O5 To ensure that development establishes a good relationship to the streetscape context.*
- O6 To ensure that development responds to the site topography and minimises excessive excavation.*
- O7 To minimise the negative impacts of development on the amenity of adjoining and neighbouring properties.*
- O8 To promote housing that achieves principles of ecologically sustainable development.*

Part B3.2: Building Envelope

Site Area: 4134m ²	Proposal	Control	Complies
Front Setback (south)	10.3-31.5	Approx. 16.8m	NO (Partial)
Front Setback (Non articulated length)	Max 10.8m	If >6m; an additional 0.9m for a length of 3m	NO
Side Boundary Setbacks (east)	9.2-15.9m	5.6-9.3m	YES
Side Boundary Setbacks (east) (Non articulated length)	Max. 27m	If >12m; an additional 1.5m for a length of 2.4m	NO
Side Boundary Setbacks (west)	9.1-10.3m	9-9.3m	YES
Side Boundary Setbacks (west) (Non articulated length)	Max. 12.8m	If >12m; an additional 1.5m for a length of 2.4m	NO
Maximum Wall Height/ Inclined Plane From Wall Height	Max. 9.5 wall height and flat roof	7.2m/45° above 7.2m	NO

Note: There is no rear setback requirement in this instance due to the subject site being subject to Council's 12m foreshore building line development standard.

Part 3.2.2: Front Setback

C1 states that the front setback is to be the average of the three most typical setbacks of the four closest residential properties (excluding garages and car ports), approximately 16.8m in this instance.

C2 requires a maximum unarticulated building width of 6m, beyond which the building is to be setback a further 0.9m for at least 3m of the frontage.

Part 3.2.3: Side Setbacks

C2 requires minimum side boundary setbacks of approximately 5.6-9.3m in this instance.

C5 requires a maximum unarticulated wall length of 12m to the side elevation, beyond which the side setback is increased by at least 1.5m for a minimum distance of 2.4m.

It should be noted that the approval of Woollahra Development Control Plan 2015 (Amendment No 2) on 10 April 2017 included the amendment of the side boundary setback requirement from 15% of a site width greater than 23m (8.4-9.9m in this instance) to a flat requirement of 3.4m for sites with frontages greater than 23m in length. However, due to savings provisions, this amendment does not apply to the subject application.

Part 3.2.5: Wall Height and Inclined Plane

C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. Roof eaves can protrude 450mm from the setback of the inclined plane.

Assessment of non-compliances/conclusion

Front setback/ maximum unarticulated wall length

The objectives of the front boundary setback control are:

- O1 To reinforce the existing streetscape and character of the location.*
- O2 To provide consistent front setbacks in each street.*
- O3 To provide for landscaped area and deep soil planting forward of the building.*

The objective of the maximum unarticulated wall length control is:

- O4 To ensure that buildings are well articulated and positively contribute to the streetscape.*

The south-western section of the proposed dwelling-house extends to approximately 10.3m of the Coolong Road alignment which is non-compliant with Council setback requirement of approximately 16.8m. Further, the south-western section of the main dwelling-house also involves a length of 10.8m without incorporating the required additional articulation/ additional setback depth described above.

No objection is raised in relation to these areas of non-compliance on the basis that:

- the non-compliance is due to the staggered alignment of the western side boundary resulting in the depth of the western section of the site being much less than the central and eastern sections;
- the 10.3m minimum setback is considered to be substantial and together with the adequate modulation provided to the south-western section of the proposed dwelling-house, no significant adverse visual impact upon the streetscape is envisaged;
- it is considered that the non-compliance will not result in any significant adverse amenity impacts upon adjoining properties;
- it is considered that increasing the front setback to the western section would unduly compromise the design of the proposal; and
- siting the development further towards the rear would impact adversely upon the adjoining property 15B Coolong Road.

Side elevation maximum unarticulated wall length

The objectives of the side elevation maximum unarticulated wall length are:

- O8 To ensure the exterior of the building is appropriately articulated.*
- O9 To limit the sense of enclosure to adjoining properties.*
- O10 To improve amenity and facilitate daylight and solar access to the site and adjoining properties.*
- O11 To encourage opportunities to design rooms with primary windows that do not face the side elevation.*

The 2 storey western elevation to the guest wing involves a wall length of 12.8m without the required articulation/ additional setback depth described above.

No objection is raised in relation to this area of non-compliance on the basis that:

- the western elevation is setback 9.1-10.3m from the western side boundary which is considered to be substantial and is further separated from the nearest residential property to the west (17 Coolong Road) by the 3.6m wide driveway to 15B Coolong Road;
- the western elevation contains 100mm deep window reveals;
- the non-compliance will not result in any significant adverse amenity impacts upon adjoining properties to the west in terms of overlooking or overshadowing;
- the proposal achieve adequate solar access to the main living room and main bedroom to the guest wing via the northern elevation; and
- the non-compliance will not have any significant adverse visual impacts upon the public domain.

The eastern elevation of the lower ground floor level involves a wall length of 27m without the required articulation/ additional setback depth described above.

No objection is raised in relation to this area of non-compliance on the basis that:

- the eastern elevation of the lower ground floor level involves a modest height of 3-5.5m and is setback 9.2-9.3m from the eastern side boundary which is considered to be substantial and adequate to mitigate adverse visual impacts upon the adjoining property to the east (11 Coolong Rd);
- the non-compliance will not result in any significant adverse amenity impacts upon the adjoining property to the east in terms of overlooking or overshadowing;
- the proposal achieve adequate solar access to the pool area via the northern elevation; and
- the non-compliance will not have any significant adverse visual impacts upon the public domain.

Wall Height and Inclined Plane

The objectives of the wall height and inclined plane control are:

- O1 To limit the bulk, scale and visual impact of buildings as viewed from the street and from adjoining properties.*
- O2 To limit overshadowing of adjoining properties across side boundaries.*
- O3 To limit overshadowing to south facing rear yards.*

C1 specifies a maximum external wall height of 7.2m with an inclined plane of 45 degrees above this height. Roof eaves can protrude 450mm from the setback of the inclined plane.

The proposal involves a maximum external wall height of approximately 9.5m. The non-compliances relate to the eastern and rear sections of the proposal.

No objection is raised in relation to these areas of non-compliance on the following basis:

- the front elevation is essentially compliant (with a minor non-compliance to the eastern section the result of a 2.5m cross-fall of the existing ground level) and therefore the visual amenity of the streetscape and the amenity of adjoining properties to the south will not be compromised by the non-compliances;
- the visual impacts of the rear and eastern sections of the proposal upon adjoining properties and the harbour are considered to be adequately mitigated via sufficient modulation, a recessive terraced form, the incorporation of adequate facade articulation and an adequately varied palette of materials including stone, bronze, timber and glass complemented by adequate landscaping elements; and
- the non-compliances will not result in any significant overshadowing impacts upon adjoining properties and solar access will be maintained to adjoining properties in accordance with Council's requirements.

The proposal is considered to be acceptable with regard to the building envelope controls and objectives under Part B3.2 of Woollahra DCP 2015.

Part B3.3: Floorplate Area

Site Area: 4134m²	Proposed	Control	Complies
Maximum Floor Plate Area	Approx. 1641m ² 98% of the buildable area	Approx. 2736m ² 165% of the buildable area	YES

C1 limits the floorplate area to a maximum of 165% of the buildable area; approximately 2736m² in this instance.

C5 states that where car parking is provided within the building envelope, the garage area (up to 40m²) is added to the permitted total floorplate.

The proposed dwelling-house, including the access garage area of 172m², involves a total floorplate area of approximately 1641m² which complies with Council's control. The proposal is considered to be acceptable with regard to the floorplate control under Part B3.3 of Woollahra DCP 2015.

Part B3.4: Excavation

Site Area: 4134m ²	Proposed	Control	Complies
Volume of excavation under footprint of proposed house	979m ³	877m ³	NO
Subsurface wall setbacks	9.3-16.5m	9.3-16.8m	NO

C1 limits the general volume of excavation to 877m³ based on the subject site area. Additional excavation is permitted by C4 for a compliant amount of parking (2 car spaces and any necessary associated manoeuvring area) and 20m³ for storage.

C6 requires the setbacks of subsurface walls to comply with the above-ground setback requirements.

Assessment of non-compliances/ conclusion

The objectives of the excavation controls are:

- O1 To allow buildings to be designed and sited to relate to the topography with minimal cut and fill.*
- O2 To minimise excessive excavation.*
- O3 To limit damage to Council infrastructure, such as roads, from truck movements.*
- O4 To restrict energy expenditure associated with excavation and traffic emissions from truck movements.*
- O5 To ensure the cumulative impacts of excavation does not adversely impact land stabilisation, ground water flows and vegetation.*

The proposal involves approximately 979m³ of excavation under the footprint of the proposed dwelling-house, a non-compliance of 102m³ with Council's volumetric excavation control of 877m³. The proposed excavation occurs within approximately 16.5m of the front boundary which is non-compliant with Council's front boundary setback requirement of 16.8m.

The above-mentioned non-compliances are considered to be satisfactory for the following reasons:

- If the four sites were not been amalgamated, the permissible volume of excavation would be increased by 150m³ up to 1027m³ which would render the proposal compliant;
- The proposal involves the use of approximately 607m³ of the excavated material as fill on-site which accounts for more than the non-compliant volume (recommended **Condition C.1i** is designed to ensure that the claimed 607m³ of excavated material is utilised as fill on site);
- The proposed cut and fill is predominantly due to the substantial 10m fall of the existing ground from the street frontage to the rear, harbour-front section of the site and will provide a level, private open space area to the rear of the lower ground floor level facing the harbour with a northerly aspect thereby providing excellent passive recreational potential for future occupants of the development;
- The proposed fill does not give rise to any adverse amenity impacts;
- Council's Development Engineer has raised no objection to the extent of excavation in terms of the capacity of the local road network to accommodate the truck movements associated with the proposed excavation;

- Council’s Development Engineer considers the excavation to be acceptable on technical grounds, subject to subject to the imposition of conditions requiring the following:
 - 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 Works Zone;
 - the preparation of dilapidation reports in relation to adjoining development; 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 300mm front setback non-compliance relates to the south-western corner of the proposed garage which is considered to be minor in extent and satisfactory in terms of the environmental impacts and the above-mentioned objectives subject to the recommended conditions addressing geotechnical issues;
- Council’s Tree and Landscape Officer has raised no objection to the proposed excavation in terms of impacts upon existing significant trees, subject to conditions;
- The proposal satisfies the energy efficiency requirements of SEPP (Building Sustainability Index: BASIX) 2004;
- The proposed cut and fill is due to the steep fall in ground level from the street frontage to the rear section of the site.

The extent of the proposed excavation is considered to be acceptable in this instance for the reasons outlined above and due to the absence of any significant adverse environmental impacts, including impacts upon existing significant trees and geotechnical/ hydrogeological impacts subject to conditions.

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part B3.4 of Woollahra DCP 2015.

Part B3.5: Built Form and Context

Site Area: 4134m ²	Proposed	Control	Complies
Colour Scheme	Unobtrusive limestone walls Unspecified roof	Unobtrusive	YES Potentially NO
Roof Materials	Non-reflective slate to hipped forms Skylights and flat roof unspecified	Non-reflective	YES Potentially NO
Casual Surveillance – Windows Facing Street/Public Area	>1	One	YES
Solar Access to Open Space of Adjacent Properties	>50% for 2 hours on 21 June	50% for 2 hours on 21 June	YES
Solar Access to Nth Facing Windows to Upper-Level Habitable Rooms	>3 hours on 21 June	3 hours on 21 June	YES

Site Area: 4134m ²	Proposed	Control	Complies
Setback of Bedroom Windows from Streets/Parking of Other Dwellings	>3m	3m	YES
Unscreened Sightline Distances of Habitable Room Windows to Adjacent Dwellings	>9	9m	YES
Unscreened Sightline Distances of Roof Terraces/Upper Level Decks from Open Space/Habitable Room Windows of Adjoining Properties	<12m	12m	NO

Part 3.5.1: Streetscape Character

C1 requires consistency with the desired future character of the precinct.

C2 requires the retention of mature or significant trees.

C3 requires development to step down the slope of the site. C4 does not permit bright or obtrusive colour schemes.

C5 requires that where the predominant form of development in a heritage conservation area is of pitched roofs, that the proposed development must match this form.

C6 requires non reflective roof materials.

C7 requires at least one habitable room window overlooking the street.

Assessment/Conclusion

Whilst the external finishes schedule specifies slate to the proposed hipped roof forms, it does not specify the colour or finish to the flat roof section or to the 3 skylights. As discussed previously, the proposed hipped roof forms are recommended to be deleted in order to mitigate view loss and visual impacts upon the locality (see recommended **Condition C.1a**). Subject to the adoption of this condition, all of the roof forms will be flat.

In order to mitigate potential reflective glare from a brightly painted flat roof and light spillage from the skylights at night, it is recommended that the flat roof be required to be finished in a recessive colour (not white) and for the skylights to be translucent and associated lighting focused downwards (see recommended **Conditions C.1d & e**).

The visual impact of the large-scale dwelling-house proposal is considered to be adequately mitigated by a form that is sufficiently modulated and recessive and which incorporates adequate facade articulation, an adequately varied palette of materials including stone, bronze, timber and glass complemented by adequate landscaping elements so as to be compatible with the scale and character of the local built environment, such that the visual amenity of the streetscape will not be significantly adversely affected.

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part B.3.5.1 of Woollahra DCP 2015.

Part 3.5.2: Overshadowing

C1(a) stipulates that sunlight is provided to at least 50% of the main ground level private open space to adjoining properties for a minimum of 2 hours between 9am and 3pm on June 21. Where existing overshadowing is greater than this, sunlight is not to be further reduced.

C1(b) states that north-facing windows to upper-level habitable rooms of neighbouring dwellings have solar access maintained for at least 3 hours to a portion of their surface during the same period.

C2 acknowledges that a departure from C1 may be unavoidable, subject to the proposed development complying with all setback controls.

Assessment/ Conclusion

The proposal complies with Council's solar access controls and the proposal is considered to be acceptable with regard to the solar access provisions in Part B.3.5.2 of Woollahra DCP 2015.

Part 3.5.3: Public and Private Views

C1 and C2 require the retention of public views and vistas, including along streets.

For properties on the low side of the street, C3 requires development to comprise breaks in the building, fencing and car parking as well as transparent panels at the side boundary in order to retain views.

C4 seeks to avoid flat roofs with vents and plant on the low side of the street.

C5 requires view sharing between properties. Specifically, C6 requires development to step down the site, C7 requires an appropriately designed roof & C8 requires that roof terraces be uncovered.

C9-C10 requires that plantings must consider the retention of views and should not be used to block views.

Assessment/Conclusion

Public views

The proposal will obstruct the majority of the harbour view from Nurrin Road, which is identified as significant under the provisions of the Vacluse West Precinct section of Woollahra DCP 2015.

The images below indicate the existing harbour view that will be obstructed.

Existing



Proposed







The obstruction of the harbour view from Nurrán Road is considered to be reasonable on the basis that:

- the view is primarily obtained between and over 2 existing dwelling-houses at 13 & 15 Coolong Road that have been approved for demolition under DA399/2016 and these sites have been amalgamated into the existing single allotment;
- it is the central section of the proposed building, located in the central section of the consolidated site and that is essentially compliant with Council's building envelope controls that will obstruct the view;
- the view loss will be compensated in part by a gain of a public view in the vicinity of the Coolong/ Nurrán Road intersection via the substantial eastern side setback, subject to restrictions being placed on the height of the landscaping thereto (see recommended **Condition C.1f**; and
- excellent public harbour views are obtained nearby from Nielsen Park and Wentworth Park and adjoining sections of Coolong and Wentworth Roads which are identified as significant public views under the provisions of the Vaocluse West Precinct section of Woollahra DCP 2015.

The capture of a public harbour view is not possible via the substantial western side setback due to the staggered alignment of the western side boundary and the existence of a two storey dwelling-house with hipped roof form on the adjoining property to the west (15B Coolong Road).

Private views

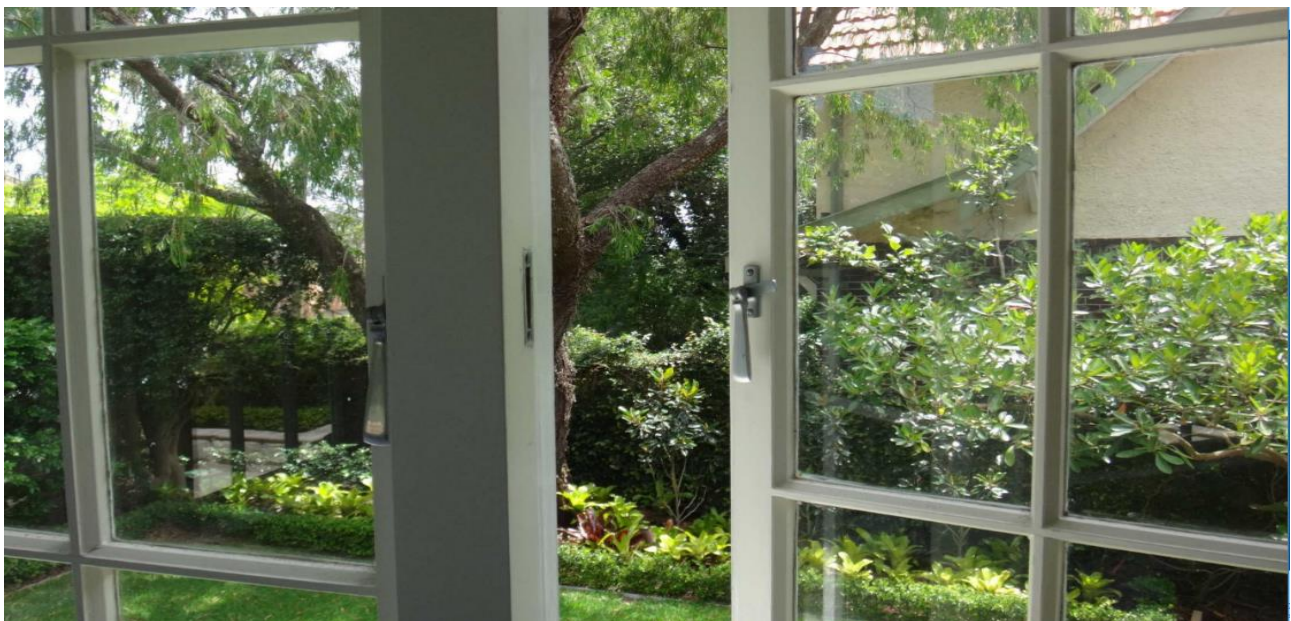
The owners of 1 Nurrán Road and 26, 28 & 30-32 Coolong Road have objected to the proposed development on the basis of view loss. In assessing the reasonableness or otherwise of the degree of view loss, this report has had regard to the case law established by *Tenacity Consulting v Warringah (2004) NSWLEC 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.

1 Nurran Road

As indicated in the photo below, 1 Nurran Road will not be adversely affected by the proposal due to the existence of vegetation. Accordingly, no further consideration has been given to the issue of view loss in relation to this property.



26 Coolong Road

The views affected by the proposal are of Sydney Harbour.

28 Coolong Road

The views affected by the proposal are of Sydney Harbour and adjoining foreshore areas.

30-32 Coolong Road

The views affected by the proposal are of Sydney Harbour and adjoining foreshore areas.

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.

26 Coolong Road

The affected views are obtained from the first floor level master bedroom/ terrace and secondary bedroom/ terrace across the front boundary, from sitting and standing positions.

28 Coolong Road

The affected views are obtained from ground floor level living rooms and adjoining ground level private open space area and first floor level master bedroom/ study and secondary bedroom across the front boundary, from sitting and standing positions.

30-32 Coolong Road

The affected views are obtained from the first floor level master bedroom/ terrace and 2 secondary bedrooms/ terraces and an attic level room/ terrace across the front boundary, from sitting and standing positions.

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.

26 Coolong Road

The image below is from the master bedroom /terrace - sitting position



The image below is from the secondary bedroom /terrace – standing position



The proposal will obstruct the majority of the harbour view from this property. Qualitatively, it is considered that the impact upon the views from this property is devastating.

28 Coolong Road

The image below is from the 1st floor master bedroom / study - standing position



The image below is from the 1st floor secondary bedroom - standing position



The image below is from the ground level private open space area - standing position



The proposal will obstruct the majority of the views from this property. Qualitatively, it is considered that the impact upon the views from this property is severe.

30-32 Coolong Road

The image below is from the 1st floor eastern secondary bedroom terrace - standing position



Views further to the west from the eastern secondary bedroom terrace will be maintained as indicated in the photo below



The image below is from the 1st floor master bedroom- standing position



Views further to the west from the master bedroom will be maintained as indicated in the photo below



The image below is from the attic level - standing position.



Views further to the west from the attic level will be maintained as indicated in the photo below



Views from the western secondary bedroom terrace will be maintained as indicated in the photo below



The proposal will partially obstruct views from this property. Qualitatively, it is considered that the impact upon the views from this property is moderate.

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.

Whilst the south-western corner of the proposal does not comply with Council's minimum setback requirement, it is considered that the non-compliance does not have any significant impact upon the private views of the above-mentioned properties.

Whilst the proposal involves non-compliances with Council's maximum external wall height control, the non-compliances relate to the eastern and rear sections of the proposal which are considered to not have any significant impacts upon the private views of the above-mentioned properties.

Whilst the front and side elevations of the proposal involve non-compliances with Council's maximum unarticulated wall lengths, it is considered that the non-compliances do not have any significant impact upon the private views of the above-mentioned properties.

As discussed previously under the section *13.3 Part 4.3: Height of Buildings*, whilst the 2 proposed chimneys exceed Council's 9.5m height development standard, they are excluded from the definition of *building height*. Whilst 2 of the proposed decorative architectural roof features to the north-eastern corner of the development exceed Council's 9.5m height development standard, it is recommended that they be deleted in the absence of a clause 4.6 statement. In order to prevent any consequential architectural disharmony, it is considered that all of the remaining decorative architectural roof features should be deleted (see recommended **Condition C.1c**).

Subject to this condition, the proposal is fully compliant with Council 9.5m height development standard.

In terms of whether a more skilful design could mitigate the extent of the adverse impacts upon private views, it is considered that the proposed hipped roof forms could be deleted without compromising the design of the proposal or unreasonably impacting upon the internal amenity/ development potential of the subject site. Accordingly, this is recommended via **Condition C.1a**. This requirement will significantly reduce view impacts upon the affected properties and would result in the north-western section of the development, which causes the majority of the collective view impact, to be approximately 2-3m below Council 9.5m height development standard.

The owners of the affected properties have requested further design changes including the following:

- *the reduction of floor-to-ceiling heights from 3.9m at ground floor level & 3.4m at first floor level to 3.1m (a 1.1m overall reduction);*
- *lowering the overall height via additional excavation,*
- *the relocation of the development toward the north/ harbour-front which is justified by the front setback non-compliance;*
- *the reduction to the building width;*
- *the utilisation of a more transparent connecting bridge to the western wing;*
- *the provision of a glass roof to the conservatory;*
- *swapping the location of the eastern conservatory with the western guest wing;*
- *the deletion of the first floor level central void; and*
- *the transfer of floor area from the first floor level to the ground floor and lower ground floor levels.*

With regard to the requested reduction to the floor-to-ceiling heights, the proposed ground and first floor levels involve floor-to-ceiling heights of 3.4m and 2.7m respectively which are considered to be reasonable on the basis that the proposal as conditioned, is fully compliant with Council's 9.5m height development standard. A reduction to the proposed floor-to-ceiling heights and the remainder

of the requested design changes are considered to be unjustifiable on the basis of the building height and floorplate compliant nature of the proposal and therefore are considered to be unreasonable impositions upon the development potential of the subject land.

Accordingly, the residual private view loss is considered to be inevitable and reasonable.

With regard to potential private view impacts associated with the proposed landscaping, concern is raised that 3 x 8m high at maturity Southern Magnolia trees and 1 x 15-20m high at maturity Moreton Bay Fig tree proposed to the front and western side setbacks would unreasonably obstruct private views. Accordingly, it is recommended that they be substituted species that will not exceed the adjacent parapet heights of the proposal (see recommended **Condition C.1g**).

Conclusion

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part B3.5.3 of Woollahra DCP 2015.

Part B3.5.4: Acoustic and Visual Privacy

C1 requires adequate acoustic separation and privacy between dwellings.

C2 aims to separate bedrooms, by way of barriers or distance, from on-site noise sources such as active recreation areas, car parking area, vehicle access ways and service equipment areas.

C3 states that electrical, mechanical, hydraulic and plant equipment are to be suitably housed so as to not create an 'offensive noise', either within or at the boundaries of any property at any time of the day.

B3.5.4 offers the following additional criteria with respect to ensuring adequate acoustic privacy:

- a) Ensuring that bedrooms of one dwelling do not share walls with the habitable rooms (excluding bedrooms) or parking areas of an adjacent dwelling
- b) Locating bedroom windows at least 3m from streets, shared driveways and parking areas

C4 states that there should not be any sightlines from a habitable room window to a habitable room window in an adjoining property within 9m. This can be achieved via window location, layout and separation, screens or translucent glazing to 1.5m sill height.

C7 requires that balconies, terraces, decks and roof terraces are suitably screened to prevent direct views into habitable rooms or private open space of adjoining and adjacent dwellings.

C5 states that windows to bathrooms, toilets, laundries and storage rooms must be fitted with obscure glazing if there are views to or from neighbouring properties.

C6 requires that screening devices consider architectural design solutions that contribute to the architectural design of the building, comply with setback controls and retain views.

C9 seeks to eliminate windows and balconies of an upper-level dwelling overlooking the private open space of a lower level dwelling within the same development.

C10 requires the trafficable area of the roof terrace to be setback so that there is no direct line of sight to neighbouring open space or windows of the habitable rooms of adjoining dwellings within a distance of 12m.

C11 requires lighting on roof terraces to be at a low level, appropriately shaded and fixed in a non-adjustable manner so that light is projected downwards onto the floor surface of the terrace.

C12 states that where a roof terrace is proposed within the roof of the existing building, no part of the terrace should extend beyond the roof profile and it must appear secondary and subservient.

Assessment/ conclusion

The owners of the adjoining property to the east (11 Coolong Road) have raised concerns relating to the potential for overlooking from the proposed rear, harbour-front terraces at ground floor and lower ground floor levels to their rear, harbour-front private open space areas. Due to separation distances of less than 12m as required by above-mentioned C10, these concerns are concurred with and are addressed by recommended **Condition C.1b** in terms of requiring the provision of privacy screening to the eastern sides of the terraces/ rotunda.

Subject to this condition, the proposal is considered to be satisfactory in terms of visual privacy impacts upon adjoining properties due primarily to adequate distances of separation.

With regard to potential acoustic privacy impacts upon adjoining properties, the owners of the adjoining property to the east (11 Coolong Road) have raised concerns relating to vehicular noise impacts upon bedrooms to the adjoining property to the east (11 Coolong Road) and they have requested that the garage entrance be relocated from the eastern side elevation to the front elevation so as to reduce vehicular noise and headlight impacts.

This design amendment request was discussed with Council's Development Engineer on 21 July 2017 who advised that it is not possible due to a maximum average gradient of approximately 33% which exceeds the maximum permissible average of approximately 25%. The level of the garage would have to be raised in order to achieve an appropriate gradient.

It is considered that a redesign of the garage and driveway is not justifiable on the basis of the relatively infrequent vehicular movements associated with a dwelling-house development.

It is considered that no significant adverse acoustic impacts upon adjoining properties is envisaged assuming normal behaviour is observed by the occupants of the dwellings.

Noise attenuation of mechanical plant is addressed by **Condition I.2 & I.4**.

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part B3.5.4 of Woollahra DCP 2015.

Part B3.6: On-Site Parking

Site Frontage: 70.4m	Proposed	Control	Complies
Location of Parking	Beyond the buildable area	Within the buildable area	NO (Marginally)
Width of Driveway	3.5	Compliance with the Australian Standard	YES
Number of driveway crossings	1	1	YES

C1 requires that parking does not dominate the street, preserves trees and vegetation and is located within the buildable area.

C2 For garages facing the street frontage— the maximum garage width is no greater than 40% of the site frontage width or 6m, whichever is the lesser.

C4 requires parking to be located within the building envelope.

C6 Notwithstanding C4, garages may be located in the front setback (i.e. outside of the building envelope) where:

- a) the rise or fall measured to a distance of 7m from the street frontage is greater than 1 in 3; and
- b) the garage is incorporated into a podium or street wall; and
- c) the garage is not more than 40m² in area.

C7 For garages located in the front setback, the maximum height of the garage structure is 2.7m above the footpath level. If the existing height of the retaining/street wall or the two adjoining garages structures is higher than 2.7m, that greater height may be permitted.

C9 For separate structures, the roof form, materials and detailing complement the principal building.

C10 Garage doors are designed to complement the building design and any important character elements within the street.

C11 Materials characteristic of the street are used for new structures at the street edge.

C12 seeks to minimise the width of the driveway and no more than the relevant Australian Standard.

C13 Only one driveway entrance is to be provided.

C14 Where soil and drainage conditions allow, semi-porous surfaces are used for uncovered car parking and driveway areas to facilitate on-site stormwater infiltration and reduce limit the visual impact of hard-surface areas.

Assessment of non-compliances/ conclusion

The proposed partially excavated garage at lower ground floor level extends to within approximately 16.5m of the front boundary which is non-compliant with Council's front boundary setback requirement of 16.8m.

The 300mm front setback non-compliance relates to the south-western corner of the proposed garage which is considered to be minor in extent and satisfactory in terms of visual impacts upon the streetscape on the basis that it is a very minor encroachment upon the front setback and the garage is approximately 2m below footpath level.

The proposal is considered to be acceptable with regard to the provisions of Part B3.6 of Woollahra DCP 2015.

Part B3.7: External Areas

Site Area: 4134m ²	Proposed	Control	Complies
Deep Soil Landscaped Area Overall	72% of unbuildable area	50% of unbuildable area	YES
Deep Soil Landscaping – Front Setback	Approx.65%	40%	YES
Deep Soil Landscaping – Rear Setback	Approx. 100%	50%	YES
Minimum Area of Private Open Space at Ground Level	>35m ²	35m ²	YES
Location of Private Open Space	To the north where possible	To the north	YES
Maximum Height of Front Fencing	1.8-2.3m >50% open	1.5m if >50% open	NO
Level of Swimming Pool Above or Below Ground Level	Part 1.1-2m below and part 2.5m above existing ground level	Maximum 1.2m change	NO
Swimming Pool Boundary Setbacks	Min 9.7m	Min. 1.5m	YES
Ancillary Structure Boundary Setbacks	Min 2.7m	Min. 9.3m	NO
Ancillary Structure Height	1.2m	3.6m	YES

Part 3.7.1: Landscaped Areas and Private Open Space

C1 requires that 50% of the site area outside of the buildable area is to comprise deep soil landscaping.

C2 requires that 40% of the front setback area is to comprise deep soil landscaping.

C4 requires that 50% of the rear setback area comprises deep soil landscaping.

C6-C8 requires that each dwelling must have private open space with a minimum area of 35m² with a maximum gradient of 1:10.

C9 permits excavation of up to 1.2m for the purposes of achieving a compliant gradient.

C12 requires that private open space should be located to the north of the development.

C13 requires that private open space is defined through planting, fencing or landscape features.

C14 notes that the location of private open space should take advantage of the outlook and natural features of the site and maintain privacy and solar access and address surveillance.

C16 seeks to incorporate existing vegetation into the landscape treatment.

C17 requires at least 50% native species.

C18 requires vertical layering at various levels which provides for greater canopy cover. C19 seeks to link open space areas to achieve wildlife corridors.

C20 requires that landscape design considers vegetation that:

- a) Contributes to the streetscape
- b) Maintains views
- c) Does not impose upon the structural stability of buildings
- d) Maintains good visibility for pedestrians and vehicles
- e) Substantial summer shade and winter sunlight to living areas
- f) Maintains privacy between dwellings
- g) Minimises risk to services
- h) Provides sightlines to vehicles and pedestrians

Assessment/ conclusion

The proposal complies with Council's deep soil landscaped area requirements.

Council's Tree & Landscape Officer considers the proposal to be satisfactory in terms of impacts upon existing trees and the proposed landscaping.

The landscaping plan is considered to be satisfactory in terms of amenity impacts upon surrounding properties subject to recommended **Conditions C.1 f & g** adequately limiting the height of landscaping to the side and front setbacks area in order to prevent loss of public and private views. Council's Tree & Landscape Officer raises no objection to this recommended condition.

The proposal, as conditioned, is considered to be generally satisfactory with regard to the above-mentioned requirements.

Part 3.7.2: Fences

C1 requires fencing that protects occupants but with surveillance of the street.

C2 requires delineation of the public, common and private spaces and C3 requires fences to define the front entrance.

C4 limits fencing to 1.2m, or 1.5m if 50% transparent or open. On the high side of the street, C6 allows fences to a height of 1.2m above the high side.

C7 requires gates to open inwards.

C8 stipulates that where a vehicular entrance is proposed, a 45° splay or its equivalent is provided either side with minimum dimensions of 2m by 2m.

C11 allows regular stepping of fences on sloping sites.

C15 states that fences should be compatible within the streetscape.

C16 does not permit corrugated iron or barbed wire in fencing.

Assessment/ conclusion

The objectives of the fencing controls are:

- O1 To ensure fences and walls improve amenity for existing and new residents and contribute positively to streetscape and adjacent buildings.*
- O2 To ensure that fences and walls are not visually intrusive in the streetscape.*
- O3 To ensure that fences and walls do not unreasonably restrict views and vistas from streets and other public spaces.*
- O4 To ensure that development creates well defined areas of public and private space.*

It is proposed to erect a 1.8m high palisade front fence / vehicular gates and a 2.1-2.3m high palisade pedestrian entry gate to the street alignment that are more than 50% open in design which is non-compliant with Council's maximum height of 1.5m.

No objection is raised in relation to this area of non-compliance on the basis that the proposed height is consistent with the predominant height of fencing in the locality and the proposed front fencing/gates provide adequate transparency in terms of mitigating the visual impacts upon the streetscape /adjoining properties and facilitating the capture of a significant public view via the eastern side setback subject to recommended **Condition C.1f** limiting the height of landscaping to the eastern side setback.

Part 3.7.3: Site Facilities

C1 requires lockable mailboxes at the street front and integrated within the front fence or entry.

C2 requires lockable storage space of 8m³ per dwelling.

C3 and C4 require at least one clothes drying facility that is secure, has access to sunlight and away from public view.

C10 allows non-solid fuel burning fire places only.

Assessment/ conclusion

The proposal is considered to be generally satisfactory with regard to the above-mentioned requirements.

Part 3.7.4: Ancillary Development – Swimming Pools

C3 requires swimming pools, including coping, to be setback 1.5m from property boundaries.

C4 states that swimming pool surrounds are to be no more than 1.2m above or below ground level.

C5 limits the depth of a swimming pool to 2m.

Assessment/ conclusion

The objectives of the swimming pool controls are:

- O1 To provide for recreational opportunities for swimming without compromising the amenity of the adjoining properties.*
- O2 To limit excavation.*

The southern section of the proposed swimming pool is excavated 1.1-2m below existing ground level and the northern section is elevated as much as 2.5m above existing ground level which involves non-compliances with the 1.2m control.

No objection is raised in relation to this area of non-compliance on the basis that the proposed excavation is considered to be satisfactory in terms of potential environmental impacts, subject to conditions, as discussed previously under the sections *13.7 Part 6.2: Earthworks* and *14.2 Chapter B3: General Development Controls Part B3.4: Excavation* and the proposed elevated portion will not have any significant adverse impacts upon the amenity of adjoining properties subject to the provision of privacy screening along the eastern side of the pool terrace (see recommended **Condition C.1b**).

The proposal, as conditioned, is considered to be acceptable with regard to the with regard to the above-mentioned requirements.

Part 3.7.4: Ancillary Development –Outbuildings

C1 states that an outbuilding is to be located within the buildable area or the rear setback.

C2 limits the height of an outbuilding to 3.6m.

C3 states that if an outbuilding is located outside the building envelope, it must not reduce the deep soil landscaped area below the minimum required for development.

Assessment/ conclusion

The objectives of the outbuilding control are:

- O1 To ensure that outbuildings do not unreasonably compromise the amenity of the occupants or the adjoining properties.*
- O2 To ensure that the required deep soil landscaped area and level area of private open space are achieved.*

The proposed barbecue and clothesline ancillary structure is set back 2.7m from the eastern side boundary, outside the permissible buildable area which is 9.3m from the eastern side boundary.

It should be noted that the approval of Woollahra Development Control Plan 2015 (Amendment No 2) on 10 April 2017 included the amendment of the side boundary setback requirement from 15% of a site width greater than 23m (8.4-9.9m in this instance) to a flat requirement of 3.4m for sites with frontages greater than 23m in length. However, due to savings provisions, this amendment does not apply to the subject application.

The subject structure only extends approximately 1.2m above existing ground level and is considered to be setback adequately (2.7m) from the side boundary such that the amenity of the adjoining

property to the east will not be significantly compromised. Further, landscaping adjacent to the eastern side boundary will provide adequate screening of the structure.

The proposal is considered to be generally satisfactory with regard to the above-mentioned requirements.

Part B3.10: Additional Controls for Development in Sensitive Locations

Site Area: 4134m ²	Proposed	Control	Complies
Level of Swimming Pool Above or Below Ground Level	Part 2.5m above existing ground level	Maximum 1.2m above existing ground level	NO

Harbour Foreshore Development

C1 notes that building forms should follow the natural topography and maintain vegetation cover as viewed from Sydney Harbour.

C2 requires that roof lines be below the tree canopy.

C3 requires the use of complimentary and compatible materials. Excessive use of glass resulting in glare is not permitted.

C4 limits boatsheds and other outbuildings to one storey and designed so as to complement the existing character.

C5 requires that swimming pools are not located more than 1.2m above existing ground level.

C6 requires that swimming pools and spas are appropriately treated when viewed from the harbour, such as with sandstone.

C16 requires development on foreshore properties to maintain or reduce current levels of stormwater or sediment run-off entering the harbour.

C19 requires the retention of the existing tree canopy.

C20 states that development on foreshore properties does not significantly alter the topography and preserves natural foreshore features including cliffs, rock outcrops, rock shelves and beaches.

Assessment/ conclusion

The proposed elevated northern section of the proposal pool will extend 2.5m above existing ground level. In order to mitigate potential adverse visual impacts upon the harbour, it is recommended that the exposed pool wall be required to be clad in sandstone in accordance with the requirements of above-mentioned C6 (see recommended **Condition C.1h**).

Otherwise, it is considered that the proposal will be compatible with the scale and character of the local built environment, will not have any significant adverse visual impacts upon Sydney Harbour and adjoining foreshore areas and will not have any unreasonable adverse impacts upon views to or from Sydney Harbour subject to the deletion of the hipped roof forms in order to adequately mitigate private view loss and the visual impacts of the development (see recommended **Condition C.1a**).

The proposal, as conditioned, is considered to be acceptable with regard to the above-mentioned requirements.

14.3. Chapter E1: Parking and Access

Part E1.4: Residential parking

	Proposed	Control	Complies
Max Number of Car Parking Spaces	>2 (Unspecified)	Max. 2 per dwelling	NO

The proposal provides an approximately 212m² garage (the number of car spaces has not been specified) whereas a typical double garage involves an area of approximately 40m². The access garage area is considered to be approximately 172m².

The following section outlines matters for consideration in this regard.

E.1.2.2 Matters the consent authority will consider

In determining car parking provision for any development, including a change of use, Council will take into account the following matters:

- *the scale and nature of the development;*
- *existing traffic generation associated with the site;*
- *traffic generation associated with the proposed development;*
- *traffic volumes on the road network in the area of the development and the capacity of the road network;*
- *impacts on traffic and pedestrian safety;*
- *impacts on residential amenity;*
- *for commercial development—the type of activities on the site, including allocation floor area for different uses associated with the commercial development e.g., area dedicated to back-of-house uses such as storage areas;*
- *for residential development—a proposal to accommodate a car share scheme parking space on the site or directly adjoining the site;*
- *methodologies to ameliorate traffic generation impacts (e.g. traffic calming);*
- *the availability of public parking (on-street and off-street) near the development;*
- *the availability of public transport to serve the development;*
- *the probable mode of transport of users to and from the development;*
- *the suitability of street lighting in the area;*
- *whether the development warrants special consideration because it is proposed for, or relates to, a heritage item;*
- *the characteristics of the streetscape and the site, particularly the subdivision pattern, topography, street design and width, street tree planting, on-street parking or loading spaces and any existing access arrangements; and*
- *construction method.*

The proposed garage is considered to be satisfactory in terms of visual impacts upon the streetscape on the basis that the structure is adequately set back from the street alignment (by a minimum of 16.5m) and is a minimum of approximately 2m below footpath level.

It is noted that prior to the amalgamation of the four sites into one, a total of 8 car parking spaces would have been permissible for four dwelling-house developments.

With regard to potential acoustic privacy impacts upon adjoining properties, the owners of the adjoining property to the east (11 Coolong Road) have raised concerns relating to vehicular noise impacts upon bedrooms to the adjoining property to the east (11 Coolong Road) and they have requested that the garage entrance be relocated from the eastern side elevation to the front elevation so as to reduce vehicular noise and headlight impacts.

This design amendment request was discussed with Council's Development Engineer on 21 July 2017 who advised that it is not possible due to a maximum average gradient of approximately 33% which exceeds the maximum permissible average of approximately 25%. The level of the garage would have to be raised in order to achieve an appropriate gradient.

It is considered that a redesign of the garage and driveway is not justifiable on the basis of the relatively infrequent vehicular movements associated with a dwelling-house development.

The proposed excavation associated with the car parking is considered to be satisfactory in terms of potential environmental impacts, subject to conditions, as discussed previously under the sections *13.7 Part 6.2: Earthworks* and *14.2 Chapter B3: General Development Controls Part B3.4: Excavation*.

In the absence of any potential significant adverse environmental impacts, no objection is raised in relation to the excess car parking provision.

The proposal is considered to be satisfactory with regard to the provisions of Part E.1 of Woollahra DCP 2015.

14.4. Chapter E2: 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.

Roads and Maritime Services (RMS) have provided the following comments in relation to stormwater drainage due to the harbour-front location of the subject site:

RMS approval is required prior to the installation of any new stormwater outlet discharging into its waterways. If a new stormwater outlet is proposed as part of the development, RMS requests that prior to determining the application Council satisfies itself that the design of the stormwater system will satisfy RMS requirements.

Council's Development Engineer Team Leader has advised that the proposed stormwater drainage is satisfactory with regard to the above.

Council's Development Engineer has provided the following comments in relation to site drainage.

The submitted stormwater management concept plans prepared by Itm design, job numbered 16/103, drawing numbered referenced H-DA-00 to H-DA-03, revision C, dated 3 Apr 2017, have been reviewed. Council's Technical Services Division is satisfied that all the outstanding stormwater drainage issues in TS referral response, dated 6 March 2017 have been addressed.

As such, adequate provision has been made for the disposal of stormwater from the land it is proposed to develop and complies with the Section E2.2.5 of Woollahra DCP.

The subject site is not flood prone.

Conclusion

The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part E.2 of Woollahra DCP 2015.

14.5. Chapter E3: Tree Management

Prescribed trees

The species or kinds of trees that are prescribed for the purpose of clause 5.9(2) of Woollahra LEP 2014 are:

- 1. Any tree or palm, whether of indigenous, endemic, exotic or introduced species with a diameter spread of branches greater than 3m or with a height greater than 5m, irrespective of the spread of branches, and that is not identified in this chapter as exempt.*
- 2. Any tree, whether of indigenous, endemic, exotic or introduced species with roots greater than 50mm diameter, but only if root pruning is proposed.*
- 3. Any tree or palm identified in Council's Significant Tree Register.*
- 4. Any tree or palm identified in Schedule 5 Environmental Heritage of Woollahra LEP, or located on land identified in Schedule 5 including:
 - a) a tree listed as a heritage item;*
 - b) a tree located on land identified as containing a heritage item; or*
 - c) a tree on land within a heritage conservation area.**
- 5. Any bushland as defined in State Environmental Planning Policy 19 – Bushland in Urban Areas.*

In this regard, Council's Tree & Landscape Officer's referral response states:

In terms of tree management and landscaping the above development proposal includes the retention of the most significant trees located across the four subject properties in terms of streetscape. Additionally all trees located within the Council verge in front of the subject properties are proposed for retention. Existing trees proposed for removal in the submitted Arboricultural Impact Assessment Report are either small in size or exempt from Council's Tree Management provisions of Woollahra DCP 2015.

The proposal, as conditioned, is considered to be acceptable with regard to Chapter E.3 of the Woollahra DCP 2015.

14.6. Chapter E4: Contaminated Land

The provisions of this chapter require the adequate management of potentially contaminated land in order to adequately ensure public health and safety, essentially replicating requirements of SEPP 55-Remediation of Land. Consideration has been given as to whether the land is contaminated. In the absence of any information indicating the potential contamination of the sites, further consideration of this issue is not warranted in this instance. The proposal is considered to be acceptable with regard to the objectives and controls in Chapter E4 of the Woollahra DCP 2015.

14.7. Chapter E5: Waste Management

The Waste Not DCP is applicable to all development and seeks to establish waste minimisation and sustainable waste management during the construction phase and throughout the on-going use of the building. Council's standard conditions have been applied in order to adequately address the provisions of Chapter E5 of the Woollahra DCP 2015 have been imposed.

14.8. Chapter E8: Adaptable Housing

C2 states that dwelling-houses and dual occupancies are encouraged to provide adaptable housing design. Lift access is proposed to all levels of the proposed dwelling-house. The proposal is therefore considered to be satisfactory with regard to the provisions of Chapter E8 of the Woollahra DCP 2015.

15. SECTION 94 CONTRIBUTION PLANS

The Woollahra Section 94A Contributions Plan is applicable. In accordance with Schedule 1, a 1% levy (of the total cost of works) applies. With a cost of works of approximately \$10,128,095, a payment of \$101,280 is required by **Condition C.2** which will be used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan.

16. APPLICABLE ACTS/REGULATIONS

16.1. Swimming Pools Act 1992

A swimming pool is at all times to be surrounded by a child-resistant barrier that separates the swimming pool from any residential building and that is designed, constructed, installed and maintained in accordance with the standards prescribed by the regulations. Additional provisions relate to:

- a) The swimming pool must be registered in accordance with Section 30B of the Swimming Pools Act 1992
- b) A Certificate of Compliance issued pursuant to Section 22D of the Swimming Pools Act 1992
- c) Water recirculation and filtration systems
- d) Backwash must be discharged to the sewer.

These requirements are addressed by standard conditions in relation to the proposed pool.

17. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been addressed elsewhere in the report.

18. THE SUITABILITY OF THE SITE

The site is considered suitable for the proposed development as conditioned.

19. CONCLUSION

This assessment has considered the application in terms of the relevant matters under Section 79C of the Environmental Planning and Assessment Act and other relevant considerations and the proposal is considered to be satisfactory in this regard, subject to conditions.

20. DISCLOSURE STATEMENTS

Under Section 147 of the Environmental Planning and Assessment Act, 1979 there have been no disclosure statements regarding political donations or gifts made to any Councillor or gifts made to any council employee submitted with this development application by either the applicant or any person who made a submission.

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

THAT Council, as the consent authority, grant development consent to DA528/2016 for the construction of a dwelling-house, swimming pool, ancillary structures, landscaping and siteworks on land at 13-15A Coolong Road Vacluse, subject to the following conditions:

A. General Conditions

A.1 Conditions

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

A.2 Definitions

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

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

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

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

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

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

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

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

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

Road has the same mean as in the *Roads Act* 1993.

Site means the land being developed subject to this consent.

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

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

Work for the purposes of this consent means:

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

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

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the architectural plans to which is affixed a Council stamp “**Approved DA Plans**” and the supporting documents listed below as submitted by the Applicant **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
A.02.01-A, A.02.02-A, A.02.03-A, A.02.04-A, A.02.05, A.02.06, A.02.07, A.02.08, A.02.09, A.02.09-A & A.02.10	Architectural plans	BKH	16/11/16 08/06/17 (A)
A.00.000	External finishes schedule	BKH	16/11/16
Drawing No.s MB_CR_01/B, MB_CR_11/B, MB_CR_30/B	Landscape Plans	Myles Baldwin Design	18/11/2016
Drawing No. MB_CR_10/D	Landscape Plan	Myles Baldwin Design	21/03/2017
	Arboricultural Impact Assessment Report	Martin Peacock Tree Care	25/10/2016
H-DA-00, H-DA-01, H-DA-02, H-DA-03, revision C	Stormwater Disposal Concept Plan	ITM Design	3 Apr 2017
	Driveway Longitudinal Section	Burley Katon Halliday Pty Ltd	16 Mar 2017
GS6705-1B	Preliminary Geotechnical Investigation Report	Aargus Pty Ltd	8 May 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*.)

A.4 Ancillary Aspect of the Development (s80A(2) of the Act)

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

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

A.5 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)
T2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	10 x 4
T6	<i>Howea forsteriana</i> (Kentia palm)		5 x 2
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)		18 x 12

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
T15	<i>Eucalyptus tereticornis</i> (Forest Red Gum)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	11 x 4	\$7000
T16	<i>Banksia integrifolia</i> (Coastal Banksia)		9 x 6	\$5000
G17	3 x <i>Callistemon viminalis</i> (Weeping Bottlebrush)		9 x 6	\$5000

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

b) The following trees may be removed:

Council Ref No.	Species	Location	Dimension (metres)
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T1	<i>Ulmus parvifolia</i> (Chinese Weeping Elm)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	6 x 4
T3	<i>Olea europea var. africana</i> (African Olive)*		4 x 3
T4	<i>Plumeria acutifolia</i> (Frangipani)		5 x 3
G5	4 x <i>Ficus benjamina</i> (Weeping Fig)		5 x 3
T5a	<i>Plumeria acutifolia</i> (Frangipani)	South west of G5	4 x 5
G7	2 x <i>Syagrus romanzoffiana</i> (Cocos palm)*	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	12 x 3
G9	<i>Syagrus romanzoffiana</i> (Cocos palm)*		15 x 3
G9a	<i>Syzygium sp.</i> (Lillypilly) - hedge	Eastern side boundary	~5 metres height
G11	2 x <i>Archontophoenix cunninghamiana</i> (Bangalow palm)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	6 x 2
G12	4 x <i>Livistona australis</i> (Cabbage Tree palm)		6 x 2
T13	<i>Trachycarpus fortunei</i> (Chinese Windmill palm)		4 x 2

Note: Tree/s to be removed shall appear coloured red on the construction certificate plans.

* Tree species is exempt from Council's tree Management Development Control Plan. Consent from Council is not required to remove this tree species.

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

B.1 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

B.2 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)
T2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	In accordance with the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016
T6	<i>Howea forsteriana</i> (Kentia palm)		
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)		4 metres
T14	<i>Eucalyptus botryoides</i> (Bangalay)		In accordance with the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016
T15	<i>Eucalyptus tereticornis</i> (Forest Red Gum)		
T16	<i>Banksia integrifolia</i> (Coastal Banksia)		
G17	3 x <i>Callistemon viminalis</i> (Weeping Bottlebrush)		

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

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

b) Tree Protection Zones 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 brought 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
T2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)
T15	<i>Eucalyptus tereticornis</i> (Forest Red Gum)

T16	<i>Banksia integrifolia</i> (Coastal Banksia)
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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) The project arborist shall provide written certification of compliance with the above conditions.
- h) All site personnel and contractors must be made aware of all tree protection requirements associated with these conditions of consent.

B.3 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
T2	Melaleuca quinquenervia (Broad-leaved Paperbark)	In accordance with Appendix A – Tree Location Plan of the Arboricultural Impact Assessment Report, written by Martin Peacock Tree Care, dated 25/10/2016	Approved soft landscaping
T6	Howea forsteriana (Kentia palm)		Approved soft landscaping
T10	Ficus microcarpa var. 'Hillii' (Hills Weeping Fig)		Approved soft landscaping

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

B.4 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
Excavation within TPZ or specified radius of existing trees	Condition of exposed roots. Ensure no level changes from existing grade.
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures

Inspections and compliance documentation shall be made by an arborist with AQF Level 5 qualifications.

Additional site visits shall be made when required by site arborist and/or site foreman for ongoing monitoring/supervisory work.

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

C.1 Modification of details of the development (s80A(1)(g) of the Act)

The *approved plans* and the *Construction Certificate* plans and specification, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail the following amendments:

- In order to adequately mitigate private view loss and visual impacts upon the locality, the hipped/ pitched roof forms to the main section of the dwelling and the western wing shall be deleted.
- In order to adequately mitigate potential loss of visual privacy impacts upon the adjoining property to the east (11 Coolong Road), 1.5m high privacy screens shall be provided to the eastern sides of the lower ground floor level pool terrace and the ground floor level rear/ harbour-front terrace and rotunda. The privacy screens shall extend 2m around the curved component of the terraces/ rotunda so as to prevent lines of sight into the private open space areas of the adjoining property.
- In order to ensure compliance with Council's 9.5m height development standard, the two north-eastern decorative architectural roof features shall be deleted and in order to prevent consequential architectural disharmony, all of the remaining decorative architectural roof features shall be deleted.
- In order to mitigate potential reflective glare impacts upon the locality, the flat roof forms shall be finished in a recessive colour (not white).
- In order to mitigate night-time light spillage, the skylights shall consist of translucent material and associated lighting shall be focused downwards.

- f) In order to create a public harbour view corridor from Coolong Rd to partially compensate for the lost significant Nurrin Road public harbour view, the proposed landscaping to the south-east of the driveway shall be substituted for species that will not exceed 1m above footpath level at maturity and the proposed landscaping to the north and east of the pool terrace shall be substituted for species that will not exceed the height of the subject BBQ/ clothes line structure at maturity.
- g) In order to prevent unreasonable loss of private views, the proposed 3 x 8m high at maturity Southern Magnolia trees and 1 x 15-20m high at maturity Moreton Bay Fig tree proposed to the front and western side setbacks shall be substituted for species that will not exceed the adjacent parapet heights of the subject building at maturity.
- h) In order to mitigate a potential adverse visual impact upon the harbour, the above-ground, curved section of the pool surround/ pool terrace wall shall be clad in sandstone.
- i) In order to minimise transport related impacts associated with removing excavated material off-site, the claimed proportion of excavated material (approximately 607m³) shall be utilised as fill on site as documented on drawing A.01.04 by BKH dated 16/11/2016.

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.

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
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit -making good any damage caused to any property of the <i>Council</i>	\$239,250	No	T115
Infrastructure Works Bond (S138)	\$6170	No	T113
Tree Damage Security Deposit – Making good any damage caused to any public tree as a consequence of the doing of anything to which the consent relates.	\$17, 000	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2011 This plan may be inspected at Woollahra Council or downloaded at www.woollahra.nsw.gov.au .			

Development Levy (Section 94A)	\$101,280 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under Section 608 of the Local Government Act 1993			
Public Road and Footpath Infrastructure Inspection Fee (\$138 Fee)	\$452	No	T45
Public Tree Management Inspection Fee	\$180	No	T95
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$364,332 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.

C.3 Tree Management Plan

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

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

This plan shall be kept on site until the issue of the final occupation certificate.

C.4 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 downloaded 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 satisfied as to this matter.

C.5 Professional Engineering Details

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

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

C.6 Road and Public Domain Works – Council Approval Required

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

- a) In the event that the existing vehicular crossing is damaged during construction works, a new 3.5m wide vehicular crossing, including the layback and gutter, shall be constructed in accordance with Council’s standard driveway drawing RF2A.
- b) A design longitudinal surface profile for the proposed driveway must be generally in accordance with Driveway Longitudinal Section, prepared by Burley Katon Halliday Pty Ltd, dated 16 Mar 2017.
- c) Reinstatement of footpath, kerb and gutter to match existing.
- d) Where a grass verge exists, the balance of the area between the footpath and the kerb over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of Couch turf.

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

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

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

Note: Refer to the advising titled *Roads Act Application*.

C.7 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:

1. A further Geotechnical Investigation, undertaken by a Geotechnical Engineer familiar with the contents of the Preliminary Geotechnical Investigation Report, prepared by Aargus Pty Ltd, referenced GS6705-1B, dated 8 May 2017. This further geotechnical investigation shall consist of three (3) boreholes extending approximately 2m below proposed bulk excavation level in order to:
 - a) confirm the inferred underlying subsurface profiles, the strengths and degree of weathering of the soils and rock horizons as well as configuration of any bedding and defects that may be present in the rock horizons; and
 - b) assess the expected groundwater conditions during excavation via a piezometer installed in the borehole, in which the suitable shoring methods and precautionary drainage measures in the design and construction of the proposed development can be determined.

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

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

C.8 Stormwater Discharge to Harbour

The developer must obtain written approval from the NSW Maritime Authority to discharge stormwater from the subject property directly into Sydney Harbour.

C.9 Stormwater management plan

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

- a) General design in accordance the stormwater management concept plans prepared by ITM design, job numbered 16/103, drawing numbered referenced H-DA-00 to H-DA-03, revision C, dated 3 Apr 2017, other than amended by this and other conditions;
- b) The modification or renewal of the existing seawall to provide increased marine habitat in accordance with NSW Office of Environment & Heritage publication '*Environmentally Friendly Seawalls*'.
- c) The discharge of stormwater, by direct connection, to Sydney Harbour;
- d) Compliance the objectives and performance requirements of the BCA;
- e) Any rainwater tank (See Note below) required by BASIX commitments including their overflow connection to the *Stormwater Drainage System*, and
- f) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

Layout plan

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

It must include:

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

Subsoil Drainage

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

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

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

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

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

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

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

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

C.11 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](#).

C.12 BASIX commitments

The *applicant* must submit to the *Certifying Authority* *BASIX Certificate* No. 775259S with any application for a *Construction Certificate*.

Note: Where there is any proposed change in the *BASIX* commitments the applicant must submit of a new *BASIX Certificate* to the *Certifying Authority* and Council. If any proposed change in the *BASIX* commitments are inconsistent with development consent (See: Clauses 145 and 146 of the *Regulation*) the applicant will be required to submit an amended development application to *Council* pursuant to section 96 of the Act.

All commitments in the *BASIX Certificate* must be shown on the *Construction Certificate* plans and specifications prior to the issue of any *Construction Certificate*.

Note: Clause 145(1)(a1) of the *Environmental Planning & Assessment Regulation* 2000 provides: "A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires,"

C.13 Waste Storage - Single Dwelling

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

- a) A storage area for 1 x 120 litre general wastes bin, one x 240 litre green waste bin, two x recycling crates behind the building line or within non-habitable areas of the dwelling
- b) A path for wheeling bins between the waste and recycling storage area and the collection point free of steps and kerbs and having a maximum grade of 1:8.

C.14 Swimming and Spa Pools – Child Resistant Barriers

The *Construction Certificate* plans and specifications required by Clause 139 of the Regulation must demonstrate compliance (by showing the proposed location of all child-resistant barriers and the resuscitation sign) with the provisions of the *Swimming Pools Act* 1992 and the Building Code of Australia.

Approval is not granted for the modification of any boundary fencing beyond what is authorised by the stamped approved plans, as modified by any condition of consent or what is permitted to be carried out as 'exempt development' pursuant to *State Environmental Planning Policy (Exempt & Complying Development Codes) 2008*.

Note: A statement to the effect that isolation swimming pool fencing complying with AS1926 will be installed does not satisfy this condition. The location of the required barriers and the sign must be detailed upon the *Construction Certificate* plans.

C.15 Swimming and Spa Pools – Backwash

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the Regulation must detail the connection of backwash to Sydney Waters sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The plans must show the location of Sydney Waters sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: The discharge of backwash water to any stormwater system is water pollution and an offence under the *Protection of the Environment Operations Act* 1997. The connection of any backwash pipe to any stormwater system is an offence under the *Protection of the Environment Operations Act* 1997.

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.

D.2 Establishment of boundary location, building location and datum

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying Act 2002* sets out:

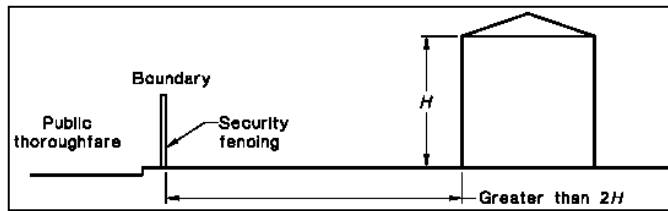
- a) the boundaries of the *site* by permanent marks (including permanent recovery points);
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum (“AHD”) in compliance with the approved plans;
- c) establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

Note: Where the *principal contractor* or *owner builder* notes any discrepancy between the approved development consent and the *Construction Certificate*, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the *principal contractor* or *owner builder* should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

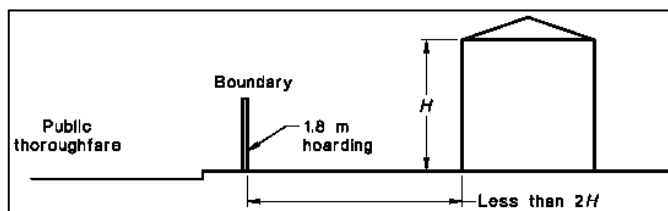
Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

D.3 Security Fencing, Hoarding and Overhead Protection

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



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

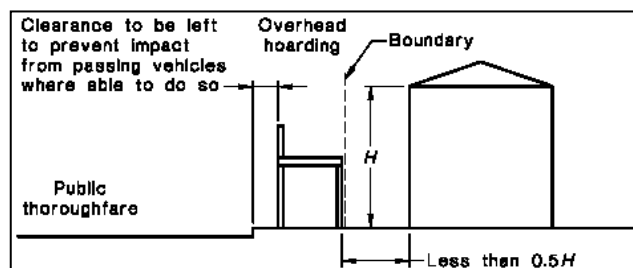


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

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

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

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



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

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:
<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/ohheadprotstruc.htm>.

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

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

D.4 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*.

D.5 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.

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

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

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

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

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

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

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

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

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*.

D.7 Notification of Home Building Act 1989 requirements

- a) For the purposes of section 80A (11) of the *Act*, the requirements of this condition are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989.
- b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- In the case of work for which a *principal contractor* is required to be appointed:
 - the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that *Act*,
 - In the case of work to be done by an owner-builder:
 - the name of the owner-builder, and

- if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
-
- c) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- d) 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.

D.8 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings /structures within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration. These properties must include (but is not limited to):

- 11 Coolong Road, Vacluse; and
- 15B Coolong Road, Vacluse.

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

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by S81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
 - To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land
- Also refer to the Dilapidation Report Advising for more information regarding this condition.

D.9 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the *Principal Contractor* must submit a dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site.

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a) Photographs showing any existing damage to the road pavement fronting the site,
- b) Photographs showing any existing damage to the kerb and gutter fronting the site,
- c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,

- d) Photographs showing any existing damage to retaining walls within the footway or road, and
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site and
- f) The full name and signature of the professional engineer.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

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

D.10 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*.

D.11 Piezometers for the monitoring of Ground water Levels

The *principal contractor* must provide one piezometers within the excavation area and a further one piezometers around the perimeter of the wall. The piezometers are to be installed to monitor groundwater levels before and during all dewatering works for the construction phase.

The Ground Water Levels monitoring wells and monitoring program must be maintained until the issue of the *Final Occupation Certificate*.

Ground Water Levels are to be regularly monitored during the course of the works as required by the Work Method Statement for the control of Ground Water Levels. Any damaged piezometers are to be replaced to allow uninterrupted monitoring.

Where there are any movements in the Ground Water Levels outside a safe range set by the Work Method Statement for the control of Ground Water Levels corrective action must be undertaken under the direction of the *professional engineer* (hydrological/geotechnical engineer).

D.12 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.

D.13 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 downloaded free of charge from www.woollahra.nsw.gov.au.

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

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

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

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

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

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

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

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

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.

E.2 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.

E.3 Public Footpaths – Safety, Access and Maintenance

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

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

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

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

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

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

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

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

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

E.4 Maintenance of Environmental Controls

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

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

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

E.5 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.

E.6 Compliance with Geotechnical / Hydrogeological Monitoring Program

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

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

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

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

E.7 Support of adjoining land and buildings

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

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

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

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

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

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

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

E.8 Vibration Monitoring

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

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

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

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

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

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*. A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

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

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

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

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

E.9 Erosion and Sediment Controls – Maintenance

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

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

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

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

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

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

E.10 Disposal of site water during construction

The principal contractor or owner builder must ensure:

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

immediately upon completion of the roof installation or work creating other impervious areas.

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

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

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

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

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

E.12 Site Cranes

Site Crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the *principal contractor* or *owner builder* have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the *principal contractor* or *owner builder* must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

E.13 Hours of Work –Amenity of the neighbourhood

- a) No *work* must take place on any Sunday or public holiday,
- b) No *work* must take place before 7am or after 5pm any weekday,
- c) No *work* must take place before 7am or after 1pm any Saturday,
- d) The following *work* **must not** take place before 9am or after 4pm any weekday, or before 9am or after 1pm any Saturday or at any time on a Sunday or public holiday;

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

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

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

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

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

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

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

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

E.14 Dust Mitigation

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

This generally requires:

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

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

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

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

E.15 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.

E.16 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.

E.17 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.

E.18 Site waste minimisation and management – Construction

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

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

E.19 Swimming and Spa Pools – Temporary Child Resistant Barriers and other matters

Temporary child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and Building Code of Australia where any swimming pool or spa pool, as defined by the *Swimming Pools Act 1992*, contains more than 300mm in depth of water at any time. Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia as soon as practical.

Backwash and any temporary dewatering from any swimming pool or spa pool as defined by the *Swimming Pools Act 1992* must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996.

Note: This condition does not prevent Council from issuing an order pursuant to section 23 of the *Swimming Pool Act 1992* or taking such further action as necessary for a breach of this condition or the *Swimming Pools Act 1992*.

E.20 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.21 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)
6 x <i>Acer palmatum</i> (Japanese Maple)	In accordance with Landscape Plan Drawing No.s MB_CR_01/B, MB_CR_11/B, MB_CR_30/B designed by Myles Baldwin Design, dated 18/11/2016 and Landscape Plan Drawing No. MB_CR_10/D, designed by Myles Baldwin Design, dated 21/03/2017	In accordance with Landscape Plan Drawing No.s MB_CR_01/B, MB_CR_11/B, MB_CR_30/B designed by Myles Baldwin Design, dated 18/11/2016 and Landscape Plan Drawing No. MB_CR_10/D, designed by Myles Baldwin Design, dated 21/03/2017	In accordance with Landscape Plan Drawing No.s MB_CR_01/B, MB_CR_11/B, MB_CR_30/B designed by Myles Baldwin Design, dated 18/11/2016 and Landscape Plan Drawing No. MB_CR_10/D, designed by Myles Baldwin Design, dated 21/03/2017
3 x <i>Bismarckia nobilis</i> (Bismarck Palm)			
1 x <i>Brachychiton rupestris</i> (QLD Bottle tree)			
2 x <i>Calodendrum capense</i> (Cape Chestnut)			
4 x <i>Cupaniopsis anacardioides</i> (Tuckeroo)			
3 x <i>Dracaena draco</i> (Dragon’s Blood Tree)			
1 x <i>Ficus macrophylla</i> (Moreton Bay Fig)			
2 x <i>Hibiscus tileaceus</i> (Cottonwood tree)			
5 x <i>Livistonia chinensis</i> (Chinese Fan palm)			
5 x <i>Magnolia grandiflora</i> (Bull Bay Magnolia)			
3 x <i>Olea europea var. europea</i> (European Olive)			
1 x <i>Plumeria acutifolia</i> (Frangipani)			
4 x <i>Phoenix sylvestris</i> (Silver Date palm)			
5 x <i>Trachycarpus fortunei</i> (Chinese Windmill palm)			
8 x <i>Washingtonia robusta</i> (Mexican Fan palm)			

The project arborist shall document compliance with the above condition.

E.22 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)
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	8
T14	<i>Eucalyptus botryoides</i> (Bangalay)	4

The project arborist shall document compliance with the above condition.

E.23 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)
T2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	8
T6	<i>Howea forsteriana</i> (Kentia palm)	3
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	15
T14	<i>Eucalyptus botryoides</i> (Bangalay)	8
T15	<i>Eucalyptus tereticornis</i> (Forest Red Gum)	6
T16	<i>Banksia integrifolia</i> (Coastal Banksia)	7

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.24 Footings in the vicinity of trees

Footings for any structure within the specified radius from the trunks of the following trees shall be supported using an isolated pier and beam system.

Council Ref No.	Species	Radius from centre of trunk (metres)
T2	<i>Melaleuca quinquenervia</i> (Broad-leaved Paperbark)	8
T10	<i>Ficus microcarpa</i> var. 'Hillii' (Hills Weeping Fig)	15
T14	<i>Eucalyptus botryoides</i> (Bangalay)	8
T15	<i>Eucalyptus tereticornis</i> (Forest Red Gum)	6
T16	<i>Banksia integrifolia</i> (Coastal Banksia)	7

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 30mm is severed or damaged. The smallest possible area shall be excavated which allows construction of the pier. The beam is to be placed a minimum of 100mm above ground level and is to be designed to bridge all tree roots with a diameter equal to or in excess of 30mm. The project arborist shall document compliance with this condition.

E.25 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.

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.

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 execute is maintained.

Note: The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, Development Standards, *BCA*, and relevant *Australia Standards*. As a minimum WAE plans and certification is required for stormwater drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed (“WAE”) plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.

F.3 Amenity Landscaping

The *owner or principal contractor* must install all approved amenity landscaping (screen planting, soil stabilisation planting, etc.) prior to any occupation or use of the site.

Note: This condition has been imposed to ensure that the environmental impacts of the development are mitigated by approved landscaping prior to any occupation of the development.

F.4 Letter Boxes

All letter boxes must be constructed and located in accordance with AS/NZS 4253:1994 Mailboxes and to Australia Post's satisfaction.

Note: This condition has been imposed to ensure that mail can be delivered to occupiers of the site.

F.5 Swimming and Spa Pools – Permanent Child Resistant Barriers and other matters

Prior to filling any swimming pool, as defined by the *Swimming Pools Act 1992*:

- a) Permanent child-resistant barriers must be installed in compliance with the *Swimming Pools Act 1992* and the Building Code of Australia.
- b) The swimming pool must be registered in accordance with Section 30B of the *Swimming Pools Act 1992* on the NSW Government Swimming Pool Register at www.swimmingpoolregister.nsw.gov.au.
- c) The *Principal Contractor* or *owner* must either obtain a 'Certificate of Compliance' issued pursuant to Section 22D of the *Swimming Pools Act 1992* or an appropriate Occupation Certificate authorising use of the swimming pool.
- d) Public Pools must comply with the NSW Health Public Swimming Pool and Spa Pool Guidelines in force at that time and private pools are encouraged to comply with the same standards as applicable.
- e) Water recirculation and filtration systems must be installed in compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems.

Backwash must be discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996:

- a) Water recirculation and filtration systems must be connected to the electricity supply by a timer that limits the systems operation such that it does not operate:
- b) Before 8 am or after 8 pm on any Sunday or public holiday or before 7 am or after 8 pm on any other day.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from: <http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

G. Conditions which must be satisfied prior to the issue of any subdivision certificate

Nil

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

H.1 Fulfillment of BASIX commitments – Clause 154B of the Regulation

All BASIX commitments must be effected in accordance with the BASIX Certificate No. 775259S.

Note: Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A *certifying authority* must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."

H.2 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in accordance with the *Roads Act 1993* approvals and comply with Council's "*Specification for Roadwork, Drainage and Miscellaneous Works*" dated February 2012 unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a) Stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b) Driveways, vehicular crossings and Access driveways within the *road*;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the *road*;
- e) Relocation of existing power/light pole
- f) relocation/provision of street signs
- g) New or replacement street trees;
- h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street.
- i) New or reinstated kerb and guttering within the *road*; and
- j) New or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council. This form can be downloaded from Council's website www.woollahra.nsw.gov.au or obtained from Council's customer service centre.

H.3 Dilapidation Report for public infrastructure works

The *Principal Contractor* must submit a follow up dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the PCA has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) Photographs showing any existing damage to the road pavement fronting the site,
- b) Photographs showing any existing damage to the kerb and gutter fronting the site,

- c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) Photographs showing any existing damage to retaining walls within the footway or road, and
- e) Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the professional engineer.

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

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principle contractor and owner carrying out work under this consent.

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

H.4 Positive Covenant & Works-As-Executed certification of stormwater systems

On completion of construction work, stormwater drainage works are to be certified by a *professional engineer* with Works-As-Executed drawings supplied to the *PCA* detailing:

- a) Compliance with conditions of development consent relating to stormwater;
- b) The structural adequacy of the rainwater tank;
- c) That the works have been constructed in accordance with the approved design and will provide the detention storage volume and attenuation in accordance with the submitted calculations;
- d) Pipe invert levels and surface levels to Australian Height Datum;
- e) Contours indicating the direction in which water will flow over land should the capacity of the pit be exceeded in a storm event exceeding design limits.
- f) A positive covenant pursuant to Section 88E of the *Conveyancing Act* 1919 must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the rainwater tank and all the stormwater treatment systems, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered at the Land Titles Office.

Note: The required wording of the Instrument can be downloaded from Council's web site www.woollahra.nsw.gov.au. The *PCA* must supply a copy of the WAE Plans to Council together with the *Final Occupation Certificate*. The *Final Occupation Certificate* must not be issued until this condition has been satisfied.

H.5 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.6 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*.

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

I.1 Maintenance of BASIX commitments

All BASIX commitments must be maintained in accordance with the BASIX Certificate No. 775259S.

Note: This condition affects successors in title with the intent that environmental sustainability measures must be maintained for the life of development under this consent.

I.2 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)
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.

I.3 Outdoor lighting – Residential

Outdoor lighting must comply with AS 4282-1997: Control of the obtrusive effects of outdoor lighting. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: This condition has been imposed to control the obtrusive effects of outdoor lighting.

I.4 Swimming and Spa Pools – Maintenance

Swimming and Spa Pools must be maintained:

- a) In compliance with the *Swimming Pools Act* 1992 and the Building Code of Australia with regard to the provision of child-resistant barriers and resuscitation signs;
- b) In compliance with the NSW Health “*Public Swimming Pool and Spa Pool Guidelines*” in force at that time. Private pools are encouraged to comply with the same standards as applicable;
- c) In compliance with AS 1926.3-2003:Swimming pool safety - Water recirculation and filtration systems ;
- d) With backwash being discharged to the sewer in compliance with clause 10.9 (Figure 10.2) of AS/NZS 3500.2.2:1996, and
- e) With a timer that limits the recirculation and filtration systems operation such that it does not emit noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - Before 8 am or after 8 pm on any Sunday or public holiday, or
 - Before 7 am or after 8 pm on any other day.

Note: Child-resistant barriers, resuscitation signs, recirculation and filtration systems and controls systems require regular maintenance to ensure that life safety, health and amenity standards are maintained.

Note: The NSW Health Public Swimming Pool and Spa Pool Guidelines can be down loaded free from:
<http://www.health.nsw.gov.au/public-health/ehb/general/pools/poolguidelines.pdf>

I.5 On-going Maintenance of the rainwater tank and stormwater treatment systems

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and in doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- g) Permit the Council or its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this covenant;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this clause within the time reasonably stated in the notice;
- i) Where the Owner fails to comply with the Owner’s obligations under this covenant, permit the Council or its agents at all times and on reasonable notice at the Owner’s cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;

- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition.

This condition has been imposed to ensure that owners are aware of require maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences – Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a **criminal offence**. Failure to comply with other environmental laws is also a criminal offence. Where there is any breach Council may without any further warning:

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

Warnings as to potential maximum penalties

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

Warning as to enforcement and legal costs

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

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.

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.

K.3 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an **owner-builder**, must appoint a *principal contractor* for residential building work who must be the holder of a contractor licence. Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html>. The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.4 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.

K.5 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.

K.6 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1–1995, Guide to Lead Paint Management—Industrial Applications, or AS 4361.2–1998, Guide to Lead Paint Management—Residential and Commercial Buildings. Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist

paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings. Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.7 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act* 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands -

<http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au/>.

K.8 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*. The securities will not be released until a *Final Occupation Certificate* has lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements. Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be. Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed. Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from

<http://www.woollahra.nsw.gov.au/pdf/Forms/Planning/RefundofSecurity.pdf>

K.9 Pruning or Removing a Tree Growing on Private Property

Woollahra Municipal Council's *Tree Preservation Order* 2006 (TPO) may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment. Before you prune or remove a tree, make sure you read all relevant conditions. You can obtain a copy of the TPO from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

K.10 Roads Act Application

Works or structures over, on or under public roads or footpaths are subject to Sections 138, 139 and 218 of the *Roads Act* 1993 and specifically:

- Construction of driveways and/or new or alterations to footpath paving
- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway

An "Application to carry out works in a Public Road" form must be completed and lodged, with the Application fee, at Council's Customer Services counter. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by *Council* under Section 138 of the *Roads Act* 1993, before the issue of any *Construction Certificate*. Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb & gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3, 2.6 of AS 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by *Council*. Your driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway/garage slab and footpath levels for any variations.

Note: any adjustments required from the garage slab and the street levels are to be carried out internally on private property

Drainage design works must comply with the Council's draft Development Control Plan Stormwater Drainage Management (Draft Version 1.1, Public Exhibition Copy dated 14 December 2006), and

Temporary ground anchors may be permitted, in accordance with Council's "*Rock Anchor Policy*".

Services Prior to any excavation works, the location and depth of all public utility services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained.

The applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development work and as required by the various public utility authorities and/or their agents.

All public domain works must comply with the latest version of Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions. This specification and the application form can be downloaded from www.woollahra.nsw.gov.au .

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

Note: When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

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

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

K.11 Dilapidation Report

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the PCA that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

ANNEXURES

1. Architectural plans and landscape plans
2. Development Engineer's referral response
3. Tree and Landscape Officer's referral response
4. Urban Design Officer's referral response