

SYDNEY EASTERN CITY PLANNING PANEL DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	0.0
FILE No.	DA433/2021/1
ADDRESS	188 New South Head Road EDGECLIFF
SITE AREA	39 893.52m ²
ZONING	SP2 Infrastructure & B4 Mixed Use
PROPOSAL	Demolition of the existing uniform shop (located at No.208 New South Head Road) and Annexe buildings and the partial demolition of an existing school building; construction of new two storey building containing a school hall, bathrooms, offices and classrooms; alterations and additions to the Fiona building and external works including reconfiguration of pick-up/drop-off zone.
TYPE OF CONSENT	Local development
COST OF WORKS	\$8,921,264.00
DATE LODGED	01/10/2021
APPLICANT	Ascham School Ltd
OWNER	Ascham School Ltd
AUTHOR	Mrs L Holbert
TEAM LEADER	Mr G Fotis
SUBMISSIONS	1
RECOMMENDATION	Approval

1. REASON FOR REPORT TO SYDNEY EASTERN CITY PLANNING PANEL (SECPP)

The application is to be determined by the Sydney Eastern City Planning Panel (SECPP) as it relates to an educational establishment that has a capital investment value of more than \$5 million (\$8,921,264).

2. REASONS FOR RECOMMENDATION

The application has been assessed within the framework of the matters for consideration under section 4.15 of the Environmental Planning and Assessment Act 1979 and is recommended for approval because:

- *It is considered to be satisfactory with all relevant planning policies including the objectives of WLEP 2014 and WDCP 2015*
- *It will not have adverse effects on the local built and natural environment nor any adverse social and economic impacts in the locality*
- *All likely impacts to adjoining properties including any submissions made have been addressed in the report, or are considered to be satisfactory.*
- *The site is suitable for the proposed development*
- *The proposal is in the public interest*

3. LOCALITY PLAN



4. PROPOSAL

The proposed development is for the demolition of the existing uniform shop (located at No.208 New South Head Road) and Annexe buildings and the partial demolition of an existing school building; construction of new two storey building containing a school hall, bathrooms, offices and classrooms; alterations and additions to the Fiona building and external works including reconfiguration of pick-up/drop-off zone. The proposal involves the following works:

New school hall building fronting No.208 New South Head Road:

- Demolition of the two storey shop located at No.208 New South Head Road (the existing uniform shop);
- Construction of a two storey building fronting New South Head Road;
- The lower level of this building comprises of an entry court, two new class rooms, plant room, WCs, kitchen, storage and lift;
- The upper level consists of a new hall, accessway, stair, lift and covered walkway;
- New solar panels and plant equipment have been proposed to the roof of this building.

Fiona Building (Heritage):

- New lift shaft and store room to the lower ground floor, ground floor and level 1 of this building.

Fiona Servants Wing (Heritage):

- Internal demolition works (primarily the internal stairs and bathrooms);
- Ground floor: new reception with new entry doors, meeting room, WC, storage, PE store, new stair and new canopy above the existing rear courtyard;
- New reception pavilion to the front of this building;
- Level 1: refurbishment of the existing classroom and learning space, new stair and circuit room.

Fiona Wing Annexe:

- Demolition of the Annexe building (existing class room).

Fiona modern wing (later addition):

- Demolition of the existing staff room and roof;
- Level 1: Conversion of the existing hall to provide 3 new class rooms and conversion of the existing learning space into new toilet facilities;
- Level 2: Refurbishment of the existing learning space;
- New 3 storey addition consisting of a staff room, lift, WC, carport, store, mechanical plant room, resource room and stair at ground floor level; new classroom, lift, WC and store to Level 1 and 4 classrooms, lift, store, WC and stair to Level 2.

External Works:

- New paving and landscaping to improve the connection between the 'Fiona' heritage building and the new school hall building (facing New South Head Road);
- Construction of a new pick-up/drop-off shelter adjacent to the 'Fiona' Modern Wing building and the carpark;
- New wet weather pavilion above the existing playground to the rear of the 'Fiona' Modern Wing building;
- Reconfiguration of the Junior School pick-up/drop-off zone (off New South Head Road) to improve queuing. This results in an increased queuing capacity and an overall reduction of 6 existing car spaces;
- Demolition of the existing booster pump and construction of new booster pump/sprinkler located adjacent to the New South Head Road driveway;
- Removal of 14 trees;
- New landscape works including the planting of 26 new trees.

Operational Details:

- No increase to the current student and staffing numbers;
- No change to current hours of operation for the school (7.30am to 5.00pm);
- No changes to the existing loading/waste arrangements.



Figure 1: 3D drawing of the rear elevation of the modern addition to the Fiona Building.

Amended plans were provided on 20/05/2021. The following changes were made:

New school hall building fronting No.208 New South Head Road:

- Deletion of the solar panels;
- The pop-up roof to the above the hall was deleted and replaced with pop-up skylights and ventilators above this part of the building;
- The screen to the roof was reduced to surround the proposed plant equipment only;
- The lift over-run was deleted.

Amended plans were received on 17/06/2022. The following changes was made:

- The drop-off/pick-up area was amended to include additional drop-off/pick-up car parking spaces.

5. ISSUES

5.1 Exceptions to Development Standards in Woollahra Local Environmental Plan 2014

Clause	Development Standard	Departure from Control	Conclusion
Part 4.3	Height of Buildings 188 New South Head Road	3.088m or 33% departure from the 9.5m control	Satisfactory
Part 4.3	Height of Buildings 208 New South Head Road	430mm or 5.38% departure from the 9.5m control	Satisfactory
Part 4.4	Floorspace Ratio 208 New South Head Road	38.06m or 9.1% departure from the 1.5:1 control	Satisfactory

5.2 Primary Issues

Issue	Conclusion	Section
Height	The amended proposal has reduced the non-compliance with the height control and the associated Cl.4.6 Variation has been supported for reasons discussed below, subject to Condition C.1(e) .	13.3, 13.4

Issue	Conclusion	Section
Traffic/Parking	Council's Traffic Department has considered the traffic and parking impacts to be acceptable, subject to Conditions A.3, D.3, D.4, E.2, I.5 and I.6.	14.4
FSR	The proposed non-compliance with the FSR is of a minor nature. The submitted Cl.4.6 Variation has been supported for reasons discussed below.	13.5, 13.6
Student/Staff Numbers)	No change to the approved student and staff numbers have been proposed. Condition I.1 restricts the student/staff numbers to the approved capacity.	17
Solar Panels	The originally proposed solar panels to the school hall building at No.208 New South Head Road were highly visible from the public domain. These solar panels have therefore been deleted by the amended development.	14.3
Plant Equipment/lift shaft	The originally proposed lift shaft to the new school hall building at No.208 NSH Rd has been deleted by the amended proposal. Condition C.1(e) requires the proposed plant equipment to the roof of this building to be deleted and relocated elsewhere within the site.	14.3

5.3 Summary of Submissions

Issue	Conclusion	Section
Construction Impact (structural stability, construction noise and dust)	Conditions of consent have been recommended to minimise the construction impacts on the adjoining properties.	9.1
Impact on the objectors business	Conditions of consent have been recommended to minimise impacts on the adjoining business.	9.1

PROPERTY DETAILS AND REFERRALS

6. SITE AND LOCALITY

Physical features
<p>This application relates to the Ascham School site, these sites are legally described as:</p> <ul style="list-style-type: none"> 37 Darling Point Road, Darling Point- (Lot A DP 108600) 43 Darling Point Road, Darling Point - (Lot 4 DP 5444) 45 Darling Point Road, Darling Point – (Lot 5 DP 5444) 188 New South Head Road (Lot 81 DP217078, Lot 1 DP225312, Lot 9 DP5444, Lot 10 DP5444, Lot 1 DP68900, Lot 1 DP69838, Lot 1 DP224844, Lot 1 DP723473, Lots 1 and 2 DP183645, Lot 1 DP74398) 208 New South Head Road, Edgecliff (Lot 1 DP 102868) 210 New South Head Road, Edgecliff (Lot 2 DP 33456) <p>This subject site has frontages to Darling Point Road, New South Head Road, St Marks Road, Ocean Ave and Octagon Road. The site has an irregular shape and a total area of 39,893.52m².</p>
Topography
<p>The topography of the site varies with the natural terrain. The area of the site that will accommodate the new works to the 'Fiona' Building (and surrounds) is relatively flat. No.208 New South Head Road, which is to accommodate the school hall building, slopes towards New South Head Road.</p>
Existing buildings and structures
<p>The subject site contains a mixture of facilities including classrooms, playing fields, tennis courts, car parking, libraries, theatre, staff rooms, administration rooms, swimming pool, boarding accommodation and other school related buildings.</p> <p>No.208 New South Head Road contains a two storey commercial building that is currently used by the school as a uniform shop, refer Photo 1. The 'Fiona' building is located at the rear of this site and contains</p>

classrooms, a library, hall and staff room for the junior school (Years 3 to 6), refer to **Photo 2**. This building was constructed in 1864 as part of the original Glenrock estate, the Fiona fig trees, the Fiona lawn and the view of Fiona from the lower driveway to Glenrock is of exceptional significance. A minor extension was added to the rear of the servant's wing (facing toward the New South Head Road frontage), referred to as the Fiona Annexe, in circa 1985 to provide additional classroom space. Three blocks of land along New South Head Road were sold and developed into offices and shopfronts including Nos.208 and 210 New South Head Road. Additional improvements were made to the 'Fiona' building in circa 1979 including the Fiona Wing modern wing extension, which included classrooms, staff facilities and the junior school library.

The subject site contains 46 trees including a heritage listed Moreton Bay Fig tree.

Surrounding Environment

The surrounding environment is characterised by a mixture of residential uses of various styles and densities including single detached dwelling and houses residential flat buildings. On the opposite site of New South Head Road is the Edgecliff Centre/train station.



Photo 1: Front elevation of No.208 New South Head Road



Photo 2: Front elevation of the 'Fiona building'



Photo 3: Existing Fiona Annexe building



Photo 4: Rear elevation of the Fiona Building (Modern Wing)



Photo 5: Side elevation of the Fiona Building (Servants Wing)

7. RELEVANT PROPERTY HISTORY

Current use
Educational Establishment (Ascham School)
Relevant Application History
<ul style="list-style-type: none"> DA2021/277- Removal of a Moreton Bay Fig Tree within Ascham School grounds- Approved - 07/10/2021; 2019/2019- Change of use from residential dwelling to an educational establishment for the purposes of a classroom & uniform shop – Approved – 26/06/2019; DA2016/507/2 - Modifications to the approved English Centre building including modifications to the approved landscaping- Approved – 08/11/2017; DA507/2016- Demolition of the existing Margaret Bailey building & the construction of a new 4 storey, English Centre building – Approved – 04/05/2017; DA2013/550/4 - Removal of the Brushbox tree – (T45) – Approved – 17/02/2016; DA2015/366 – Refurbishment of the playground including new equipment soft fall landscaping and seating - Approved – 16/09/2015; DA2013/550/3 – Removal of two trees (T4) - located on the southern side of Darling Point Road access driveway and (T72) located on the western side of Duntirri House – Approved – 24/06/2016; DA2014/331/2 – Modification of Condition E.2 to allow for extended work hours and modification of Condition E.3 to allow for the use of the public footpath to undertake the works - Approved – 04/02/2015; DA2014/331 – Removal of two heritage listed Moreton Bay Fig trees – Approved – 30/09/2014; DA2013/550/2 - Internal and external changes to the approved scheme: changes to building facade and approved landscaping, addition of a new sub-station (Condition C.7) and modification to Construction Management Plan (Condition D.3) – Approved – 17/09/2014; DA2013/550 - Alterations, additions & use of Duntirri House and annexe building for school boarding facilities; construction of new science classroom building connecting to the Ascham School Whitehead Building; associated landscaping works; student cap of 1,240 inclusive of boarders – Approved – 28/04/2014. DA2007/200 – Classroom and WC addition to existing kindergarten – Approved – 22/05/2007.
Relevant Compliance History
N/A
Pre-DA
<p>A pre-da was undertaken on 27/04/2021. The following conclusion was made:</p> <p><i>The proposal is generally acceptable at the conceptual level, noting the detailed comments/recommendations provided from Council's internal referral staff based. A more detailed assessment will occur at the development application stage of the proposal and submission of a more comprehensive DA package.</i></p>
Requests for Additional Information and Replacement Applications
<ul style="list-style-type: none"> An updated Green Travel Plan and Queuing Analysis was requested 10/02/2022 and was received on 05/04/2022; Student enrolment numbers for 2022 and 2021 were requested on 08/03/2022 and were received on 14/03/2022; A revised Traffic Report was requested 08/03/2022 and was received on 05/04/2022; A Cl.4.6 Variation in relation to the FSR non-compliance was requested on 08/03/2022 and was received on 23/05/2022; Amended plans were requested on 07/03/2022 and were received on 23/05/2022; A revised Cl.46 Variation in relation to height was requested on 07/03/2022 and was received on 23/05/2022; Revised photomontages were requested on 14/06/2022 and were received on 16/06/2022.
Land and Environment Court Appeal(s)
N/A

8. REFERRALS

Referral	Summary of Referral Response	Annexure
Technical Services	Satisfactory, subject to Conditions A.3, A.4, B.7, C.1(d), C.7, C.10 to C.13, D.2, D.14, E.6, E.14 to E.19, F.4, H.2, I.3.	3

Referral	Summary of Referral Response	Annexure
Traffic	Satisfactory, subject to Conditions A.3, D.3, D.4, E.2, I.5 and I.6.	4
Trees and Landscaping	Satisfactory, subject to Conditions A.3, A.5, B.8 to B.11, C.7, C.9, E.8 to E.13, F.3.	5
Heritage	Satisfactory, subject to Conditions B.3 to B.7, C.1(a), C.1(b), C.1(c), C.2 to C.6, E.7 and F.2.	6
Urban Design	Satisfactory.	7
Environmental Health	Satisfactory, subject to Conditions A.3, B.1, C.15, C.16, C.17, E.5, E.30, I.7 to I.10.	8
Fire Safety	Satisfactory, subject to Conditions C.8, F.5, F.6, I.4.	9
Drainage	Satisfactory.	10
Compliance	Satisfactory, subject to Conditions I.1, I.2.	11
Roads and Maritime Services	Approved, subject to Condition A6.	12
Sydney Buses	Satisfactory.	13

ENVIRONMENTAL ASSESSMENT UNDER SECTION 4.15

The relevant matters for consideration under Section 4.15 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

9. ADVERTISING AND NOTIFICATION

9.1 Submissions

The application was advertised and notified from 20/10/2021 to 18/11/2021 in accordance with Chapter 6 of the Woollahra Community Participation Plan 2019. One Submission was received from:

1. Tom Roman, 210 New South Head Road, Edgecliff

The submissions raised the following issues:

- **Construction impact (structural stability, noise, dust).**

Comment: Conditions of consent have been recommended to ensure the construction impacts including the structural stability of adjoining buildings and construction noise/dust are minimised.

- **Impact on the adjoining business.**

Comment: Conditions of consent have been recommended including construction impacts, hours of operation and an enrolment cap to minimise impacts on surrounding properties.

9.2 Statutory Declaration

The applicant has completed the statutory declaration dated 13/04/2022 declaring that the site notice for DA433/2021/1 was erected and maintained during the notification period in accordance with Chapter A2.3.5 of the Woollahra DCP 2015.

10. STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 2 – Coastal Management

Chapter 2 (Coastal Management) gives effect to the objectives of the Coastal Management Act 2016 from a land use planning perspective, by specifying how development proposals are to be assessed if they fall within the Coastal Zone.

The subject site is located wholly outside of the Coastal Environment Area (Section 2.10) and the Coastal Use Area (Section 2.11). Furthermore, sub-clauses 2.10(3) and 2.11(2) state:

This section does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

On the basis, no further consideration is required under Chapter 2 of the Resilience and Hazards SEPP 2021.

Chapter 4 – Remediation of Land

The Object of this Chapter aims to *promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:*

- a) *By specifying when consent is required, and when it is not required, for a remediation work*
- b) *By specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular*
- c) *By requiring that a remediation work meet certain standards and notification requirements*

Under Clause 4.6(a) of Chapter 4 – Remediation of Land, consideration has been given as to whether the subject site on which the development is occurring is contaminated.

As the site has a long history of educational/commercial use, it is considered that the land does not require further consideration under Section 4.6(3) and 4.6(4) of Chapter 4 – Remediation Of Land of the Resilience and Hazards SEPP 2021.

The proposal is acceptable with regard to the relevant matters for consideration in Section 4.6 of Chapter 4 – Remediation of Land of the Resilience and Hazards SEPP 2021.

11. STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

The proposed development is obscured from the waterway and the foreshores by existing development and landscaping. The subject site is not a land/water interface development, notwithstanding, Division 2 of Part 10.3 the Biodiversity and Conservation SEPP prescribed matters for consideration for interrelationship of waterway and foreshore uses as well as maintenance, protection and enhancement of views.

The proposal does not result in any detrimental impact on the wetlands or cause pollution or siltation of the waterway. It does not detrimentally impact on existing vegetation or drainage patterns and does not obstruct vistas of the waterway from the public domain.

The proposal therefore satisfies the relevant criteria prescribed by the SEPP.

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

12. STATE ENVIRONMENTAL PLANNING POLICY (EDUCATIONAL ESTABLISHMENTS & CHILD CARE FACILITIES) 2017

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (ESEPP) provides the legislative planning framework for the effective delivery of educational establishments and early education and care facilities across the State. Part 4 of this SEPP seeks to simplify planning approval pathways for schools by enabling development for the purpose of a school to be carried out by any person with development consent on land in a prescribed zone (Clause 35).

SP2 Infrastructure and B4 Mixed Use are both prescribed zones for the purposes of this SEPP (Clause 33) and development for the purpose of a school is therefore permissible with consent on the site. The relevant provisions of the Education SEPP have been considered in the preparation of the proposed development including the Design Quality Principles, outlined in Schedule 4 of the Education SEPP, as detailed below.

Principle 1 - Context, Built form and Landscape

The proposed development is considered acceptable in term of Principle 1, for the following reasons:

- The proposed height and scale of the amended school hall building to No.208 New South Head Road is considered to appropriately respond to the highly mixed streetscape along New South Head Road, and has been amended and conditioned to improve views of the heritage listed 'Fiona' building located to the rear of the proposed school hall building. The design and materiality of this new building is considered to be sympathetic to the character of the adjacent heritage listed items;
- The proposed demolition of the non-contributory Annexe building will open up views of the southern elevation of the heritage listed 'Fiona' building, which will improve the heritage significance of the site. The remaining works to the significant parts of the 'Fiona' building were supported by Council's Heritage Officer, subject to conditions;
- The proposed additions to the 'Fiona' building have a sympathetic form, scale and materiality and have been sited a significant distance from the significant fabric. The proposed additions are considered to be well integrated within the context of the Ascham School campus as a whole;
- The proposed building works will improve pedestrian connections within the site and enhance the landscape amenity for staff and students.



Figure 2: Photomontage of the new school hall building at No.208 NSH Rd, as viewed from opposite side of NSH Rd.



Figure 3: Photomontage of the proposed new school hall building to No.208 NSH Rd, as viewed from the corner of Ocean Street & New South Head Road (**Note:** this photomontage is the original development, however the changes to the development would not be readily discernible from this distance)

Principle 2 - Sustainable, Efficient and Durable

The proposed development is considered acceptable in term of Principle 2, for the following reasons:

- New solar panels have been proposed;
- An increased tree canopy has been proposed to be planted on the site;
- **Conditions C.18** and **F.7** requires electric vehicle charging circuitry to be provided within the site;
- The proposed materials are considered to be durable and low maintenance, which will minimise wasted created by frequent maintenance/repairs.

Principle 3 - Accessible and Inclusive

The proposed development is considered acceptable in term of Principle 3, for the following reasons:

- The proposed development seeks to improve site accessibility through the provision of new lifts to the proposed school hall building (No.208 NSH Rd) and to the Fiona building;
- The development will include upgrades to wayfinding and accessibility through compliance with the provisions of the Disability Discrimination Act 1992.

Principle 4 - Health and Safety

The proposed development is considered acceptable in term of Principle 4, for the following reasons:

- Measures are proposed to be incorporated into the design and management of the school to ensure the safety and security of students and staff, including the reconfiguration of the pick-up/drop-off zone;
- Standard conditions of consent have been recommended to protect the health and safety of staff and students, during the construction phase.

Principle 5 - Amenity

The proposed development is considered acceptable in term of Principle 5, for the following reasons:

- The landscape amenity of the Junior School will be substantially improved by the proposal and provides opportunities for outdoor learning and shade/weather protection to outdoor playgrounds;
- The proposed school hall building is located within close proximity to the New South Head Road. In order to protect the amenity of the building occupants, the submitted Acoustic Report has recommended acoustic attenuation measures including acoustic insulation, glazing and seals. These recommendations will form part of the approved documentation, refer to **Condition A.3**;
- The proposed building works provide for a variety of high quality learning environments, including high quality art facilities, spaces and equipment for use by students and staff.

Principle 6 - Whole of life, Flexible and Adaptive

The proposed development is considered acceptable in term of Principle 6, for the following reason:

- The new school hall and classrooms have been designed to reflect the changing needs of students, including flexible learning spaces.

Principle 7 - Aesthetics

The proposed development is considered acceptable in term of Principle 7, for the following reason:

- The proposed building design, materiality and landscaping will complement the surrounding natural and built environment and the heritage character of Ascham School site.

12.1 Conclusion

The proposal is therefore acceptable with regard to SEPP (Educational Establishments & Child Care Facilities) 2017.

13. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 2014

13.1 Part 1.2: Aims of Plan

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

13.2 Land Use Table

The proposal is defined as an Educational Establishment and is permitted and is consistent with the objectives of the SP2 Educational Establishment and B4 Mixed Use Zones.

13.3 Part 4.3: Height of Buildings

Part 4.3 limits development to a maximum height of 9.5m and 8m.

	Existing	Proposed	Control	Complies
Maximum Building Height 188 New South Head Road (Fiona Building)	10.18m	12.528m	9.5m	NO*
188 New South Head Road (New building facing New South Head Road)	N/A	7.2m	9.5m	YES
208 New South Head Road	7.94m	8.43m	8m	NO*

*Satisfactory, see comments below.

The proposal does not comply with the maximum building height prescribed by Part 4.3 of Woollahra LEP 2014. The proposal would represent a height non-compliance of 430mm (to No.208 NSH Rd) and 3.088m (to No.188 NSH Rd), refer to **Figures 4 and 5**.

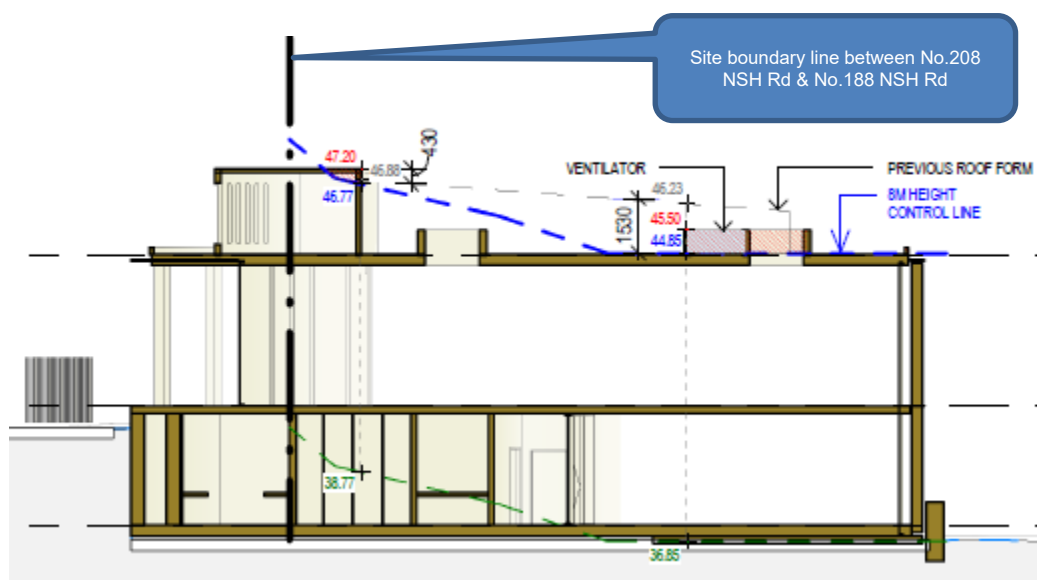


Figure 4: Extent of non-compliance to the proposed school hall building at No.208 New South Head Road.

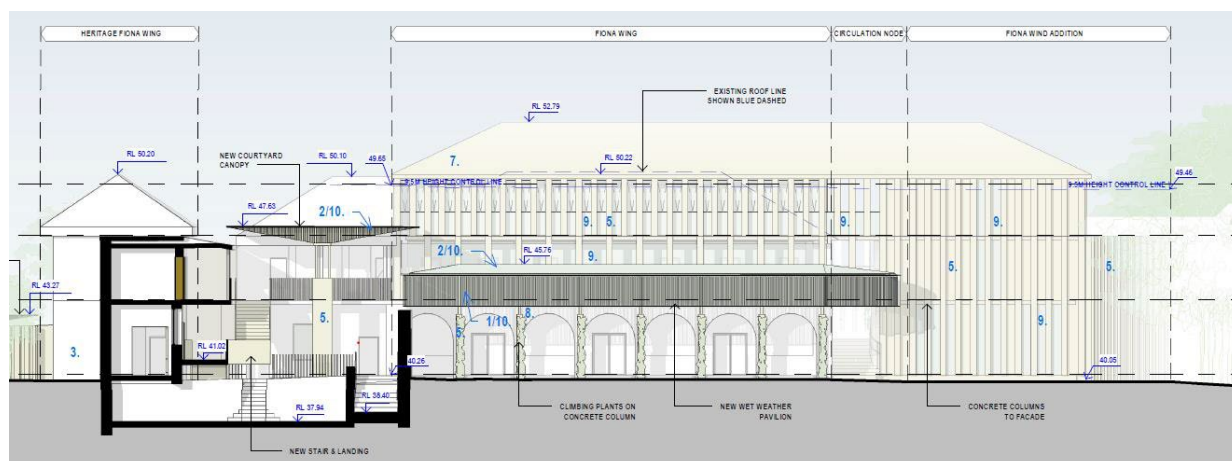


Figure 5: Extent of non-compliance to the proposed addition to the Fiona Building (modern wing)

Note: The proposed school hall building facing New South Head Road is subject to two different height controls, as this building is built across two separate lots. The lot known at No.208 New South Head Road, is subject to a height limit of 8m and the lot known as No.188 New South Head Road is subject to a height limit of 9.5m.

13.4 Part 4.6: Exceptions to Development Standards

Departure

The proposal involves a non-compliance with the height of buildings statutory control under Part 4.3 of the Woollahra LEP 2014.

The proposal exceeds the 8m maximum *Height of Buildings* development standard under Clause 4.3 of the Woollahra LEP 2014 (to No.208 New South Head Road site) and the 9.5m *Height of Buildings* development standard to No.188 New South Head Road. The proposed educational establishment is 8.43m (to No.208 NSW Rd) and 12.588m (to No.188 NSW Rd) and represents a 430mm (5.38%) and 3.088m (33%) non-compliance with the development standard respectively, refer to **Figure 4** and **Figure 5**.

Purpose

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

Written Request

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

The applicant has provided a written request in relation to the departure. Refer to **Annexure 21**.

Assessment

Clause 4.6(4)- Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

- a) *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Comment: The applicant's written request has adequately demonstrated that the objectives of the height development standard are achieved, notwithstanding the numerical non-compliance.

The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).

- b) *That there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act. '

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request, which supports the proposed non-compliance with the height of buildings development standard, has adequately demonstrated that the proposed development promotes good design and local amenity of the built environment, in accordance with object 1.3(g) of the EPA Act.

The applicant's written request has demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(i) - Assessment

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that:

- ii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Height of Buildings* development standard, and the zone objectives of the B4 Mixed Use zone and SP2 Infrastructure Zone. An assessment against these objectives is provided below.

Clause 4.3 – Height of Buildings

The proposal is assessed against the sub-clause (1) objectives of Clause 4.3 which specify the following objectives:

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

No.208 NSH Rd:

Comment: Condition C.1(e) requires the proposed plant equipment and the associated screen to be deleted from this building, which will reduce the extent of non-compliance to 200mm (to a portion of the proposed roof ventilators/skylights). The resulting non-compliance is considered to be negligible and considered to be consistent with the desired future character of the neighbourhood.

No.188 NSH Rd:

Comment: The proposed additions to the 'Fiona' building allow for improved educational facilities at the site. The pitched roof design is considered to be more sympathetic to the adjoining and surrounding heritage items. Further to this, the proposed height is consistent with the general pattern of development on the subject site and is considered to be acceptable in this regard.

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

Comment: The subject site is located at zone interface of four different zones including the B4 Mixed Use (contains the proposed school hall building), SP2 Education Establishment (zone of the remainder of the Ascham school site), R3 Medium Density Residential and B2 Local Centre.

No.208 NSH Rd:

Comment: The proposed school hall building has been designed to reflect the bulk and scale of development located along this part of New South Head Road. Further to this, **Condition C.1(e)**

requires the plant area and the associated screen to be deleted. The resulting non-compliance is negligible (200mm relating to a small part of the proposed roof ventilators/skylights) and as these elements have been setback from the frontage, the non-compliance will not be readily discernible from the street. The proposed development is considered acceptable in this regard.

No.188 NSH Rd:

Comment: The proposed additions to the 'Fiona' building are located within Ascham School site and will not be visible from the public domain. Further to this, given the separation distances these works will not result in any adverse impacts on surrounding properties.

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

Comment: The proposed development will not adversely impact the solar access of surrounding properties, this is further discussed below in *Section 14.1*.

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

Comment: The works will not adversely impact views, solar access, privacy and will not result in significant visual intrusion. This has been discussed in *Section 14.1*.

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



Photo 6: Eastern side of the existing building at No.208 New South Head Road with the Fiona building behind



Figure 6: 3D drawing of the amended hall building with Fiona building behind



Figure 6A: Photomontage of the proposed school hall building as viewed from the opposite site of NSH Rd.

No.208 NSH Rd:

Comment: The proposed school hall building will not result in the loss of any public views of the harbour or surrounding areas, including the heritage listed 'Fiona' building (that is located to the rear of this building). The amended development will improve public views of the 'Fiona' building, as the existing trees to the west of the existing building are proposed to be removed, refer to **Photo 6**. Further to this, **Condition C.1(e)** requires the plant equipment located on the roof of the proposed school hall building to be deleted. This will further improve public views of the heritage listed 'Fiona' building from the New South Head Road.

No.188 NSH Rd:

Comment: The proposed height non-compliance to the 'Fiona' building (modern addition) will not result in the loss of any public views of the Harbour or heritage items and is acceptable in this regard.

Objectives of the B4 Mixed Use Zone (No.208 NSH Rd):

The objectives of the B4 Mixed Use Zone:

- *To provide a mixture of compatible land uses*

Comment: The proposed new educational establishment building is a compatible land use on the site and is acceptable in this regard.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

Comment: The proposed new educational building will provide for improved educational facilities at the site, which is opposite very good public transport links.

- *To provide active ground floor uses to create vibrant centres*

Comment: This proposed building provides for improved educational facilities at the site, which contribute to the vibrancy of the Edgecliff Centre.

- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*

Comment: The proposed development is considered to be of a scale that is compatible with the residential amenity of surrounding properties.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood*

Comment: Subject to **Condition C.1(e)** the proposed school hall building will only result in a negligible increase (200mm) to the maximum height control and is of similar height and scale to the existing building at the site. The proposed height and bulk is therefore considered to be compatible with desired future character of the neighbourhood.

Objectives of the SP2 Infrastructure (No.188 NSH Rd):

The objectives of the SP2 Infrastructure Zone:

- *To provide for infrastructure and related uses*

Comment: The proposed educational facilities will provide appropriate infrastructure and is considered acceptable in this regard.

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

Comment: The proposed development provides for additional educational facilities, which is considered to be a compatible use within this zone.

Conclusion:

The proposal is satisfactory with the intent of the aforementioned zone objectives and there are sufficient environmental planning grounds to justify the contravention, as follows:

- Subject to **Condition C.1(e)** the area of non-compliance to the school hall building at No.208 NSH Rd would be negligible (200mm) and is confined to the proposed skylights/ventilators. These elements provide for improved internal amenity and do not result in the loss of amenity

to the surrounding properties or loss of views from the public or private domain. The proposed building is therefore considered to be compatible with desired future character of the neighbourhood;

- It has been demonstrated that the exceedance of the height development standard the additions at No.188 NSH Rd would not result in any adverse overshadowing, view loss impacts, or any adverse acoustic and visual privacy impacts to the adjoining properties;
- The development meets the objectives of the development standard and the objectives of the B4 Mixed Use Zone and the SP2 Infrastructure Zone notwithstanding the variation;
- The proposed development is in the public interest and there is no public benefit in maintaining the standard in this instance; and
- The contravention does not raise any matter of State or Regional significance.
- For reasons as outlined in the applicant's written request pursuant to Clause 4.6 of the WLEP 2014, refer to **Annexure 21**.

Clause 4.6(4)(a)(b)

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

(b) the concurrence of the Secretary has been obtained.

The Department issued a Planning Circular No.PS18-003 (dated 21 February 2018) which notified Councils of arrangements "...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument..." Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the *Height of Buildings* development standard prescribed by *Part 4.3* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by this Clause. Departure from the control can therefore be supported.

The written submission from the applicant has adequately demonstrated that the contravention of the *Height of Buildings* development standard prescribed by *Part 4.3* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority is satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 development standard. Departure from the control can therefore be supported.

13.5 Part 4.4: Floor Space Ratio

Part 11 limits development to a maximum floor space ratio of 1.5:1 for the land at No.208 New South Head Road. There is no FSR applicable for the remainder of the site (No.188 New South Head Road).

Site Area: 278.8m ²	Existing	Proposed	Control	Complies
Floor Space Ratio	1.1:1 (310m ²)	1.64:1 456.26m ²	1.5:1 (418.2m ²)	NO*

*Satisfactory, see comments below.

The proposal does not comply with the maximum building Floor Space Ratio control prescribed by Part 4.4 of Woollahra LEP 2014. The proposal would represent a gross floor area (GFA) non-compliance of 38.06m².

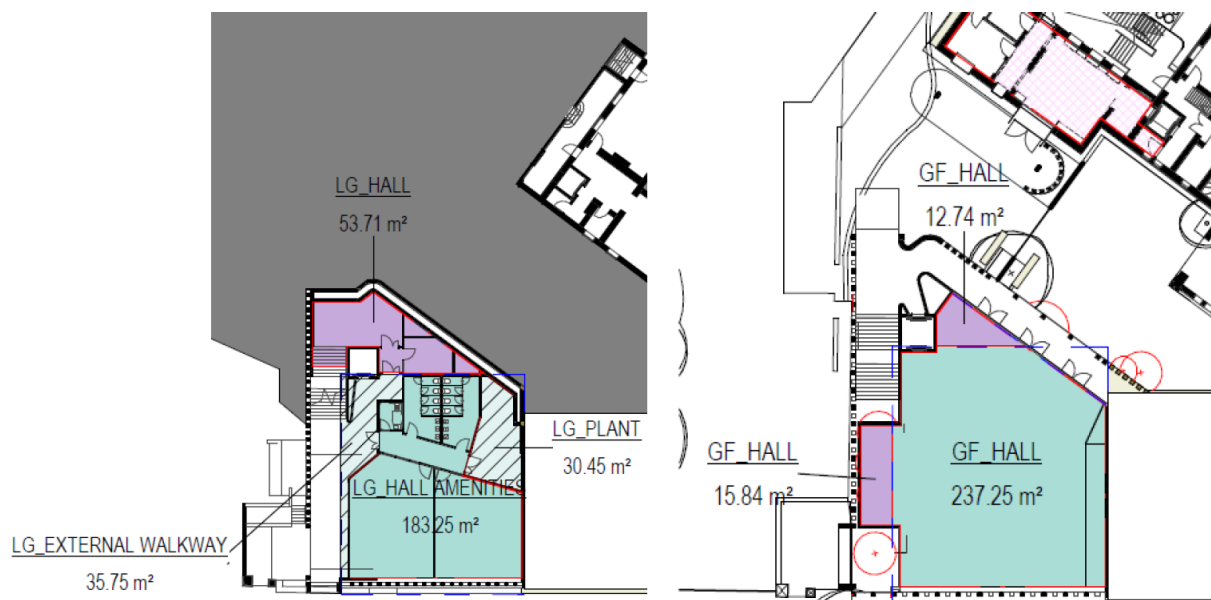


Figure 7: Area of the proposed school hall building included as GFA (**Note:** only the areas shaded green and the external walkway shaded green hatched have been included; the lower ground plant room shaded green hatched was not included).

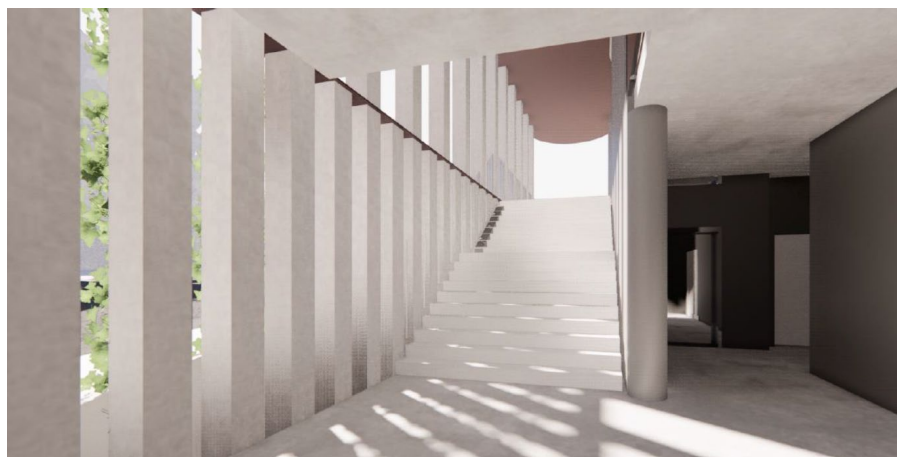


Figure 8: Semi-enclosed external walkway to the school hall building is partly included as GFA.

Note: The only part of the site that is subject to a FSR control is No.208 NSH Rd. The proposed building to be constructed on this site extends beyond the boundaries of No.208 NSH Rd. In addition part of the external walkway within the site boundaries have been included as GFA, as this external walkway has semi-enclosed walls. So for the abundance of caution this area of the building has been included as gross floor area.

13.6 Exceptions to Development Standards (Part 4.4 FSR)

Departure

The proposal involves a non-compliance with the floor space ratio statutory control under Part 4.4 of the Woollahra LEP 2014.

The proposal exceeds the 1.5:1 maximum floor space ratio development standard under Clause 4.4 of the Woollahra LEP 2014. The proposed school hall building has a FSR of 1.64:1 and represents a 38.06m², or 9.1% non-compliance with the development standard, as detailed in Section 13.5.

Purpose

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

Written Request

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

The applicant has provided a written request in relation to the departure. Refer to **Annexure 22**.

Assessment

Clause 4.6(4)- Assessment

Clause 4.6(4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be addressed by Cl 4.6(3). There are two separate matters for consideration contained within Cl 4.6(3) and these are addressed as follows:

- c) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*

Comment: The applicant's written request has adequately demonstrated that the objectives of the height development standard are achieved, notwithstanding the numerical non-compliance.

The applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a). The objectives of the development standard are discussed further in the assessment of Clause 4.6(4)(a)(ii).

- d) That there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be 'environmental planning grounds' by their nature: See

Four2Five Pty Ltd. v Ashfield Council. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act including the objects in s1.3 of the EPA Act. ‘

S1.3 of the EPA Act reads as follows:

1.3 Objects of Act

(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request, which supports the proposed non-compliance with the floor space ratio development standard, has adequately demonstrated that the proposed development promotes good design and local amenity of the built environment, in accordance with object 1.3(g) of the EPA Act.

The applicant's written request has demonstrated sufficient environmental planning grounds to justify the contravention of the development standard as required by Clause 4.6(3)(b) and the consent authority can be satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3).

Clause 4.6(4)(a)(i) - Assessment

Clause 4.6(4)(a)(ii) requires the consent authority to be satisfied that:

- iii) *The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out*

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the *Floor space Ratio* development standard, and the zone objectives of the B4 Mixed Use zone. An assessment against these objectives is provided below.

Clause 4.4 – Floor space ratio

The proposal is assessed against the Objective of the Development Standard prescribed by Clause 4.4 which states:

For buildings in B4 Mixed Use Zone-

- a) ***To ensure that buildings are compatible with the desired future character of the area in terms of bulk and scale.***

Comment: As detailed elsewhere in this report, the proposal satisfies this objective and is considered to be of an appropriate height, bulk and scale and is consistent with the established bulk and scale in the vicinity of the site. The proposal is therefore considered to be compatible with the desired future character of the area.

Objectives of the B4 Mixed Use Zone:

The objectives of the B4 Mixed Use Zone:

- *To provide a mixture of compatible land uses*

Comment: The proposed educational establishment building provides a compatible land use on the site and is acceptable in this regard.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling*

Comment: The proposed development will provide for improved educational facilities at the site, which is compatible with surrounding commercial and residential uses and is suitably located (opposite very good public transport links).

- *To provide active ground floor uses to create vibrant centres*

Comment: The proposed building provides for improved educational facilities at the site, which contributes to the vibrancy and employment opportunities within the Edgecliff Centre. Given the need to address the impacts of road noise and the functional requirements of a school, the provision of street activation through window openings and glazing at the subject site is constrained. Notwithstanding this, the proposed school hall building improves the visual interest of the site, and is considered acceptable in this regard.

- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood*

Comment: The proposed school hall building is of a height and scale that is consistent with surrounding development and is considered to be compatible with desired future character of the neighbourhood.

Conclusion:

The proposal is satisfactory with the intent of the aforementioned zone objectives and there are sufficient environmental planning grounds to justify the contravention, as follows:

- The area of non-compliance relates to part of the external walkway of the proposed school hall building, refer to **Figures 7 and 8**. This part of the building is semi-enclosed and highly articulated. Further, as the subject site forms part of the extensive grounds of Ascham School, this non-compliance would not be readily discernible and is consistent with the desired future character of the neighbourhood;
- The development meets the objectives of the development standard and the objectives of the B4 Mixed Use zone, notwithstanding the variation;

- It has been demonstrated that the exceedance of the FSR development standard would not result in any adverse overshadowing, view loss impacts, or any adverse acoustic or visual privacy impacts to adjoining properties;
- The contravention does not raise any matter of state or regional significance.
- For reasons as outlined in the applicant's written request pursuant to Clause 4.6 of the WLEP 2014, refer to **Annexure 22**.

Clause 4.6(4)(a)(b)

Clause 4.6(4)(b) requires the consent authority to be satisfied that:

(b) the concurrence of the Secretary has been obtained.

The Department issued a Planning Circular No.PS18-003 (dated 21 February 2018) which notified Councils of arrangements "...where the Director General's concurrence may be assumed for exceptions to development standards under environmental planning instruments which adopt clause 4.6 ...of the Standard Instrument..." Clause 64 of the EPA Regulations provides that Council may assume the Director-General's [Secretary's] concurrence for exceptions to development standards, thus satisfying the terms of this clause.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the *Floor Space Ratio* development standard prescribed by *Part 4.4* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by this Clause. Departure from the control can therefore be supported.

The written submission from the applicant has adequately demonstrated that the contravention of the *Floor Space Ratio* development standard prescribed by *Part 4.4* of the Woollahra LEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The consent authority is satisfied that the applicant's written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

The consent authority is satisfied that the proposal is in the public interest as it is consistent with the objectives of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.4 development standard. Departure from the control can therefore be supported.

13.7 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 located within heritage conservation area, however contains the following heritage items:

- Ascham School precinct comprising: 'Fiona' including interiors and former entrance gates, 'Glenrock' including interiors and inner and outer gates, the 'Dower House' including interiors, sandstone works, remaining open space and oval adjacent to 'Fiona', 4 Moreton Bay Figs (Item No. 239);

- 'The Octagon' – building and interiors (Item no. 179);
- 'Yeomerry' – building and interiors (Item no.181);
- 'Duntrim' – building and interiors (formerly a house) and grounds, including a Norfolk Island Pine (Item no. 87).

The statement of significance as contained in the online NSW State Heritage Inventory listing for the Ascham School Precinct are as follows:

Ascham School Precinct

Ascham School is one of the oldest independent private schools for girls in Australia. Distinguished by its innovative educational method (the Dalton method), the precinct is a microcosm of European history of Darling Point. It contains the Octagon (designed by Ambrose Hallen in 1832), considered the first building on the point and other early houses such as Dower House (1850) and Fiona (1864), both designed by Architect J.F. Hilly, Glenrock (designed by David MacBeath, 1874), Raine House (formerly Yeomerry, by Maurice Halligan, c1909), Hillingdon (Herbert Wardell, 1909), Holmwood (1910) and Duntrim (Maurice Halligan, 1911).

The site is associated with notable persons of New South Wales – Colonial Architect Ambrose Hallen, the eminent Architect John Frederick Hilly, the prominent figure of Sir Edward Knox, the educator Margaret Bailey and the Littlejohn family.

The precinct contains a rare collection of architecturally fine houses with historic, aesthetic and representative significance, most of which are intact with their intact original front garden spaces. The Octagon is a distinguished work of Georgian colonial architecture, the only known extant example of the work of Ambrose Hallen, Colonial Architect. Fiona is an exceptional Italianate villa by leading Victorian architect J. F. Hilly.

The precinct, including its buildings, trees, memorials, archives and ephemera, provides a unique resource into the history of the school. As one of the oldest non-denominational girls' schools in Sydney, established in 1886, it is held in high esteem by students, staff and parents, past and present. The site, its buildings and grounds, together with the Ascham archives held on site, are an important resource for the history of the education of girls in NSW and Australia. The introduction of the Dalton Plan to the school in 1922, and its continued use in educating Ascham students is unique in NSW, and possibly Australia.

The proposed development is not considered to detract from the character, appearance and setting of these heritage items for the following reasons:

- The proposed demolition of the Annexe building located adjacent to the southern elevation of the 'Fiona' building is supported on heritage grounds, as it is not an original structure, or an early/significant addition. Further the removal of this structure will improve the setting of the 'Fiona' building by opening up views to the southern elevation;
- The form and siting of the alterations and additions to the modern wing of the 'Fiona' building ensures that the setting and curtilage of the heritage significant component of the 'Fiona' building is respected, refer to **Figure 1**;
- The proposed development does not detract from the setting of the heritage items in the vicinity of the new works;
- The proposed school hall building to No.208 New South Head Road has been amended and conditioned to ensure views obtained from the public domain of the 'Fiona' building are improved, refer to **Photo 6, Figure 6 and Figure 6A**;
- The partial removal of the southern wall to the 'Fiona' servant's wing to allow for new openings is considered acceptable, as these works would not be visible from the public domain and are to an altered part of the building. Further, **Condition C.1(b)** requires the new window frames to be installed within these openings to have similar thickness to a traditional timber frames;

- Conditions of consent have been recommended to ensure the proposed works to the 'Fiona' building are monitored by a suitably qualified heritage architect. In addition, a Schedule of Conservation Works is to be required to be provided, refer to **Conditions C.3 and C4**;
- **Condition C.1(a)** does not allow for existing unpainted and un-rendered stone and brickwork of the original 'Fiona' building to be rendered or painted;
- The proposed development will generally retain original internal fabric to the 'Fiona' building. Only minor demolition works within areas of the building that have been already altered are proposed. The minor changes to the internal layout are considered acceptable, as the original layout of the 'Fiona' building will to be interpreted;
- **Condition C.2** requires significant fabric within the 'Fiona' building to be protected and retained during the construction works, including the installation of the new lift;
- The proposed contemporary school hall building to No.208 New South Head Road is considered to be of a height, form, siting, footprint and materiality that is sympathetic to surrounding heritage items;
- The proposed canopies, adjacent to the 'Fiona' building were supported by the Heritage Officer, as these structures have been positioned away from significant areas of the 'Fiona' building and are self-supporting. In addition these structures have been sympathetically designed and finished;
- The solid to void ratios to the proposed additions have responded to the solid to void ratios of the 'Fiona' building;
- The proposed contemporary materiality of the proposed additions to the modern wing of the 'Fiona' building are considered to be sympathetic and provides differentiation between original and new fabric;
- The remaining heritage listed Moreton Bay Fig located on the site will be unaffected by the proposed works.

The following listed heritage items are located in proximity of the site:

- '3 Norfolk Island Pines, 2 Moreton bay Figs, 2 Port Jackson Figs, Candlenut Tree' at Ocean Avenue (within road reserve), Item no. 223.

Due to the siting of the proposed works there will be no impact on these heritage listed trees.

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

13.8 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 are not likely to lower the water table below 1.0m AHD on any land within 500m of a Class 1, 2 and 3 land classifications. Accordingly, preliminary assessment is not required and there is unlikely to be any acid sulfate affectation. It is therefore acceptable with regard to Part 6.1.

13.9 Part 6.2: Earthworks

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

The proposal involves minor excavation works, to the lower ground floor of the proposed school hall building at No.208 New South Head Road. These excavation works are to a depth of between 0.4m to 3.7m.

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

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

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

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

A Geotechnical Report by martens consulting engineers, referenced P2108194JR02V02, dated May 2021, has been submitted in support of the application. The proposal involves excavation depth of 0.4m in the South to a maximum depth of 3.7m in the North.

The report identified that the subsurface conditions as:

- a) Fill comprising silty sand to a maximum depth of 0.9m*
- b) Depth of natural sand with various density from a depth beneath the fill to a depth of 7.5m*
- c) Sandstone bedrock was not encountered beneath the natural sand.*
- d) Groundwater appeared not to be an issue.*

The report made comments and recommendations on the following:

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

Council's Infrastructure and Sustainability Services has no objection to the proposed excavation on technical grounds.

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

- 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;
- **Condition D.12** requires a Construction Management Plan to be provided; and
- **Conditions C.12** and **E.15**, require the implementation of hydrogeological/geotechnical and adequate supervision/monitoring of the excavation process by a qualified and practicing geotechnical engineer.

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

14. WOOLLAHRA DEVELOPMENT CONTROL PLAN 2015

14.1 Chapter B1: Darling Point Residential Precinct

The streetscape character and key elements of the Darling Point precinct includes d) *well established gardens and trees*; e) *remnant estate gardens*; f) *historic stone walls* and j) *the highly visible tree canopy providing a dense green backdrop to views from Sydney Harbour and surrounding lands*.

It is noted that the provision of Chapter B1 do not apply to the parts of the site that are known as Nos.208 and 210 New South Head Road.

The proposed works are considered to be consistent with key element of the desired future character of the Darling Point Residential Precinct for the following reasons:

- The proposed works includes substantial landscaping and tree planting works, which will enhance the existing tree canopy of the site;
- The existing sandstone wall and entrance posts to the front boundary (fronting New South Head Road) will be retained by the proposal;
- The development would not adversely affect the character, appearance and setting of the heritage items within the site. This is further discussed above in **Section 13.7** of this report.

Accordingly, the proposal meets the streetscape character and key elements of the precinct and desired future character objectives O1, O2, O4, O5, O10, O11, O12 of the Darling Point Precinct, as specified in Part B1.2.2 of the Woollahra DCP 2015.

Part B3.4: Excavation

It is noted that the provision of Chapter B3 do not apply to the parts of the site that are known as Nos.208 and 210 New South Head Road.

No excavation works are proposed by the development, with the exception of the excavation works to accommodate the school hall building at No.208 NSH Rd (these excavation controls do not apply to this site). It is noted that these excavation works has been discussed above in **Section 13.9** of this report.

Part B3.5: Built Form and Context

Part B3.5.1: Streetscape and Local Character

The only part of the development that will be visible from New South Head Road is the proposed school hall building to No.208 New South Head Road. These controls do not apply to that part of the site and have been considered below in **Sections 14.3 and 14.8** of this report.

Part B3.5.2: Overshadowing

The additional overshadowing created by the proposed development is contained within the subject site and does not result in the loss of any solar access to adjoining private open space or habitable room window at adjoining properties. It is noted that adequate solar access to the school playgrounds will be maintained.

Part B3.5.3: Public and Private Views

No views from the public or private domain will be obstructed by the proposal and is acceptable in this regard.

Part B3.5.4: Acoustic and Visual Privacy

The proposed development is considered acceptable in terms of visual and acoustic privacy for the following reasons:

Visual Privacy:

- The proposed glazing to the northern and rear elevations of the 'Fiona' building addition (modern wing) is sufficiently separated and screened to protect the visual privacy of surrounding residential properties;
- The remaining new glazing faces toward the school grounds;
- The proposed elevated decks to the Junior School playground, adjacent to the eastern boundary of the site are not considered to adversely affect the visual privacy of the adjoining residential properties. This is because the land adjoining these spaces is heavily vegetated, has a steep topography and is not easily useable as private open space.

Acoustic Privacy:

- The submitted Acoustic Report demonstrates the proposal complies with the relevant noise emission requirements in the SEPP (Educational establishments & child care facilities) and the NSW EPA Noise Policy for Industry. The Acoustic Report will form part of the approved documentation, refer to **Conditions A.3**;
- There is no intensification of use, given that the number of students are not proposed to be increased, refer to **Condition I.1**;
- No details of the plant equipment have been provided, at this stage of development. Council's Environmental Health has not raised any objection to this, subject to **Conditions A.3, C.16, I.8 and I.10**.

The proposal is acceptable with regard to the controls in Part B3.5 of the Woollahra DCP 2015.

Part B3.7: External Areas

Part 3.7.1: Landscaped Areas and Private Open Space

C16 seeks to incorporate existing vegetation into the landscape treatment.

It has been proposed to remove 14 trees from the site. The removal of these trees were supported by Council's Landscape Officer, as these trees were of low significance and 26 replacement trees have been proposed to be planted within the site.

Part 3.7.3: Site Facilities

C7 states that air conditioning units are not to be visible from the public domain and C8 and C9 seek to maintain the acoustic and visual amenity of adjoining properties.

The proposed new plant equipment to the 'Fiona' building will not be visible from the public domain. Conditions of consent have been recommended to ensure this plant equipment does not adversely affect the acoustic privacy of surrounding properties.

Conclusion

The proposal is acceptable with regard to the external controls in Part B3.7 of the Woollahra DCP 2015.

14.2 Chapter D2 Mixed Use Centres

New South Head Road Corridor, Edgecliff

C1 seeks to achieve active uses with low parking demand at the ground floor with C2 requiring office and residential on the levels above.

This proposed building provides for improved educational facilities at the site, which contributes to the vibrancy and employment opportunities within the Edgecliff Centre. Given the need to address the impacts of road noise and the functional requirements of a school, the provision of street activation through window openings and glazing at the subject site is constrained. Notwithstanding this, the proposed school hall building improves the visual interest of the site, and is considered acceptable in this regard. The demand for car parking has been discussed below in **Section 14.4** of this report.

C3 states that façade design is of high quality and complements the characteristics of adjoining buildings.

The proposed design of the front façade includes a high quality finish and is considered to be sympathetic to the character and appearance of adjoining buildings.

C4 requires similar proportions of glazing and non-glazed surfaces.

The proposed solid to void ratios are considered to be compatible with the general pattern of development and is acceptable in this regard.

C6 discourages blank facades to the side and rear elevations.

The proposed side and rear elevations to the new school hall building are suitable articulated and are acceptable in this regard.

C9 requires a consistent and coherent alignment to the public domain though.

The existing front building alignment is to be retained and is acceptable in this regard.

C11 states that awnings are required for mixed use and commercial buildings and they are to be consistent with the streetscape.

The proposed removal of the streetscape awning is considered appropriate, given the building will form part of Ascham School. The design of the school hall building is considered to appropriately integrate with the adjoining commercial buildings. It is noted that Ascham School owns the adjoining site at No.210 NSH Rd and is in the process of purchasing the remaining site along this part of New South Head Road (No.212 NSH Rd). It is also noted that these site were previously part of the Ascham School site.

The proposal is acceptable with regard to the desired future character, objectives and controls for the Edgecliff Corridor in Part D2.2 of the Woollahra DCP 2014.

14.3 Chapter D3: General Controls for Neighbourhood and Mixed Use Centres

Part 3.2: Uses

C1 requires active retail uses at ground floor level and C2 requires that residential areas at ground floor level are to be confined to the rear of the building or for entrance only.

A new educational building is to be constructed at the site, which is a permissible and appropriate use of the site, particularly as this site forms part of the Ascham School site. No retail or residential uses have been proposed.

C6 specifies that the land use is to be consistent with the desired character of the centre.

No.208 New South Head Road was originally part of the Ascham School site before this land was subdivided. The proposed school hall building reincorporates this land within the school site, whilst, maintaining a compatible building form with surrounding commercial development. The proposal is therefore considered to be consistent with the desired future character of the Edgecliff Centre.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.2 of the Woollahra DCP 2014.

Part D3.3: Street Character

C1 requires that buildings be as close to the street as possible to promote interaction.

The proposed school hall building has been sited on the front boundary and is acceptable in this regard.

C2 specifies large glazing at ground level with a maximum sill height of 0.7m.

The proposed educational use of the site, is considered to be an appropriate land use, given that the site is part of the Ascham School site. The proposed school hall building does not include full height glazing to the front elevation at ground floor level, as there is a need to address the impacts of road noise and the functional requirements of a school. Notwithstanding this, the proposed design improves the visual interest of the site and has a high quality finish.

C3 requires a well defined street address and entrance to upper levels. C4 limits the frontage of the entrance to 20% of the property width.

The proposed entry court provides for a well-defined street address and presentation.

C6 requires the reinforcement of the predominant form of the street, including front setbacks, awnings, parapet lines, roof pitches and floor to ceiling heights.

The proposed school hall building has been designed to be consistent with the adjoining front building alignments, front parapet and flat roof form. No front awning has been proposed, as the new educational building reincorporates this site into the Ascham School site. Notwithstanding this, the proposed design is still compatible with adjoining and surrounding commercial development.

C16 requires the protection of trees and C17 requires advanced replacement trees.

There are no trees located on the subject site. However the proposed school hall building requires the removal of 5 Italian Cyprus trees (located on the adjacent site, within the Ascham School site). These trees are of low significance and their subsequent removal was supported by Council's Landscape Officer. Substantial replacement planting has been proposed to be provided on the Ascham School site.

C18 requires windows to overlook the street. C19 permits security features that allow window shopping outside of business hours and C20 seeks to avoid dead edges, blank walls and recessed spaces.

The proposed windows will overlook New South Head Road.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.3 of the Woollahra DCP 2014.

Part D3.4: Built Form

C2 seeks to minimise cut and fill with ground floor levels that correspond with adjoining properties. The proposed ground floor level will correspond with adjoining properties.

C4 requires a minimum floor to ceiling height of 3.6m at ground level to allow flexibility in use.

The proposed floor to ceiling height at ground floor level is 3.3m. This non-compliance with Control C4 is considered acceptable, as it is of a minor nature and is appropriate for the educational use of the building. It is noted that this building is part of Ascham School and not part of the Edgecliff commercial centre.

C6 states that the front setback should define a coherent and consistent alignment to the street, including on corners.

The proposed front building alignment of the proposed school hall building will align with the front building alignment of adjoining buildings at No.210 & 212 New South Head Road.

C13 requires sunlight to the private open space of adjoining properties for two hours between 9am and 3pm on June 21. Where it is less than this, it is not to be further reduced.

Complies.

C14 requires the retention of views and vistas.

The amended development and **Condition C.1(e)** will improve views to the heritage listed 'Fiona' building from the public domain.

C18 requires a minimum floor to ceiling height of 2.7m for habitable rooms.

The floor to ceiling heights to both levels of the proposed school hall building will exceed 2.7m, in accordance with Control C18.

C21 requires windows to the front and rear elevations and not to side boundaries.

Windows have been proposed to the front and rear elevations. The proposed glazing to the western side elevation is separated by at least 17m from the nearest adjoining residential property.

C25 requires that the roof pitch be compatible with the existing development context.

The amended roof design, subject to **Condition C.1(e)** is considered to be compatible with the existing context.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.4 of the Woollahra DCP 2014.

Part D3.5: Building Articulation

C3 states that building design should respond to environmental conditions such as noise, privacy, views, ventilation and solar access.

The design of the amended school hall building at No.208 New South Head Road has reflected the environmental conditions within the immediate vicinity and as considered acceptable with regard to Control C3.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.5 of the Woollahra DCP 2014.

Part D3.6: Heritage and Contributory Buildings

C1 states that the heritage significance of a building is not to be compromised.

The proposed school hall building lies adjacent to the heritage listed 'Fiona' building and entrance gates. The proposal has been amended and conditioned to improve views to the 'Fiona' building, which located behind the new building. The design and materiality of this building are considered to be sympathetic to the character of the adjacent heritage listed items.

C4 notes that the demolition of a contributory building is not permitted.

The proposed development involves the demolition of the existing building at No.208 New South Head Road, to allow for a two storey school hall building to be constructed. The land at No.208 New South Head Road, was originally part of the Ascham School and was later subdivided. The existing commercial building constructed c.1959 is a modified double storey modernist building, designed by E.A & T.M Scott (a prominent architecture firm). The existing building has a masonry construction and the primary façade is finished with glass, timber and fibro. The skillion roof is clad with metal sheeting. It would appear that the shopfront has been modified from its original design. Council's Heritage Officer has supported the demolition of this building for the following reasons:

The existing structure at No.208 New South Head Road, Edgecliff is not considered to be a fine example of a type, and has no distinctive landmark qualities or other features that would make the structure potentially significant or rare. Internally, the dwelling does not retain any significant fabric or detailing. In addition, there are finer examples of the building typology within the Municipality. Although associated with prominent architectural firm E.A & T.M Scott, it is not exemplar of their work. Therefore, it is not considered to meet the threshold for listing as a local heritage item. Accordingly, the property is not considered a potential heritage item and therefore no objection is raised to the proposed demolition of the structure.

C5 requires sympathetic design for development adjacent to a heritage or contributory item.

The proposed school building is sited adjacent to the heritage listed 'Fiona' building and entrance gates. The proposed school hall building to No.208 New South Head Road is considered to be of a height, form, siting, footprint, design and materiality that is sympathetic to surrounding heritage items. Council's Heritage Officer has supported the proposed new building.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.6 of the Woollahra DCP 2014.

Part D3.7: Acoustic and Visual Privacy

C1 specifies a minimum distance of 6m between non-habitable rooms, 9m between habitable and non-habitable windows and 12m between habitable rooms for windows between buildings.

The proposed school hall building would be acceptable in terms of visual privacy for the following reasons:

- All new window openings face New South Head Road or the Ascham School site, with the exception of the hall window located on the western elevation. This window is sufficiently separated from residential buildings by at least 17m;
- The proposed open form walkway located on the western side of the school hall building is sufficiently separated (approximately 17m) from residential properties located on the western site of the Junior School driveway.

C2 requires that the siting and design of a building must consider external noise sources.

The proposed school hall building fronts New South Head Road, which is a heavily trafficked arterial road. In order to protect the occupants of the building from noise intrusion, the submitted Acoustic Report has recommended acoustic attenuation measures. These include acoustic insulation, acoustic glazing and acoustic seals. These recommendations will form part of the approved documentation, refer to **Condition A.3**.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.7 of the Woollahra DCP 2014.

Part D3.8: Landscaped Area and Private Open Space

C7 requires the incorporation of existing trees into the landscape treatment.

There are no trees located on this part of the site. However, the rest of the Ascham School site contains a high number of trees. The impact the proposed development has on these trees is discussed above.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.8 of the Woollahra DCP 2014.

Part D3.10: Site Facilities

C9 Mechanical plant equipment (including lift overruns and air conditioners) must be located internally within the principal building in a suitably designed plant room or the like.

The proposed school hall building includes an internal plant room to the lower ground floor. Plant equipment has also been proposed to the roof of this building. **Condition C.1(e)** requires this plant equipment and the associated screen to be deleted from the roof and relocated elsewhere within the site.

C10 Mechanical plant equipment (including lift overruns and air conditioners) must be wholly contained within the permissible building envelope and must not be located externally or on the roof unless Council is satisfied that it:

- a) cannot be reasonably located elsewhere; and*
- b) is thoughtfully located, sized, enclosed, concealed and integrated into the building design (including when viewed from above) and roof form so it:*
 - i. is not visible from the streetscape or public domain;*
 - ii. is consistent with the overall building design, roof form and materials;*
 - iii. is visually discreet and unobtrusive when viewed from adjoining properties; and*
 - iv. minimises acoustic impacts to adjoining properties*

The original development included a large screened plant area including a lift over-run to the roof of the school hall building. The amended development has deleted the lift over-run and reduced the size of the plant area (and the associated screen) to the roof of this building. However the revised plant area to the roof of this building, is not considered acceptable for the following reasons:

- The proposed external plant area of the roof, could be easily relocated within the wider school site, given its large size;
- The proposed plant area will be visible from the public domain and will obstruct views to the heritage listed 'Fiona' building from the public domain, which is located to the rear of this new building.

The proposal is therefore acceptable with regard to the objectives and controls in Part D3.10 of the Woollahra DCP 2014.

14.4 Chapter E1: Parking and Access

The existing gross floor area (GFA) of the existing development at Ascham School is 29 368.58m². Chapter E1 of the WDCP, 2015 requires 1 space per 100m² for educational establishments, equating to a car parking requirement of 294 parking spaces. The school site currently accommodates 142 onsite car parking spaces.

The proposed school hall building at No.208 New South Head Road provides 146.2m² of additional GFA and the new additions to the 'Fiona' building provides 357.95m² in additional GFA. The relevant car parking generation rate is 1 spaces/100m² for educational establishments. This equates to a total of 5 additional parking spaces (299 spaces in total), refer to Table 1.

Table 1: Non-Residential Car Parking

Use	GFA	Rate	Multiplier	Spaces Required	Spaces Provided
Educational Establishment To No.208 NSH Rd (B4 Land)	146.2m ²	1 space/100m ²	X 0.6 (B4 land)	0.88 (1 Space)	0
Additional GFA (Fiona Building SP2 Land)	357.95m ²	1 space/100m ²	N/A	3.6 (4 Spaces)	0
Net Change	504.15m ²	N/A	N/A	5 spaces	6 spaces are proposed to be removed by the development (to accommodate the reconfigured pick-up area) Total spaces on the site = 136 spaces

The proposed development will result in the loss of 6 car spaces (7 spaces will be removed to accommodate the changes to the drop-off/pick-up area, 1 additional space has been provided adjacent to the 'Fiona' heritage building). This additional car parking shortfall of 6 car spaces is considered acceptable for the following reasons:

- Council's Traffic Department has supported the parking shortfall;
- No addition students or staff have been proposed by this development, **Condition I.1** requires the existing student and staff cap to be remain;
- The subject site is located within close proximity to very good public transport links including: the Edgecliff train station/bus interchange and ferry services from Double Bay and Darling Point Ferry Wharves;
- The applicant has submitted a Green Travel Plan which facilities alternative transport modes including reducing staff car parking demand by 21%;
- Students are prohibited from driving to the school.

Motorbike/Bicycle Parking:

Table 2: Bicycle & Motorbike Parking

BICYCLE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Employees	-	1 per 10 staff	-
Students	-	1 per 20 students	-
Total			0
MOTORBIKE			
	Quantity	DCP Minimum Requirement	DCP Minimum Required Parking
Car Spaces	5	1 per 10 car spaces	0.5 (1)
Total			1

The proposed development results in demand for one additional motorbike space. No new motorbike spaces have been provided. Council's Traffic Department has not raised any concern with this non-compliance, as it is considered to be negligible. No additional bicycle spaces will be generated by the development, as no additional students or staff has been proposed by the development.

Traffic (Pick-up/Drop-off):

The proposal includes the reconfiguration of pick-up/drop-off zone located at the main entrance, off New South Head Road. This pick-up/drop-off zone is only used by the Junior School (Years 3-6). It is also noted an Operational Transport Management Plan (OTMP) has been developed for the redevelopment of Fiona Building, which is consistent with the wider Ascham School Operational Transport Management Plan developed in 2014.

The existing pick-up/drop-off zone has an area available that can accommodate approximately 80m of vehicle queuing, refer to **Figure 9**. The proposed reconfigured pick-up/drop-off zone will provide approximately 30m of additional queuing capacity for vehicles entering the carpark, refer to **Figure 10**. In addition this the new facility includes adequate space for simultaneous pick-up/drop-offs and for overtaking without blocking the carpark aisle. The new pick-up/drop off facility would have adequate space for 7 simultaneous pick-ups/drop-offs, whereas currently there is only space for 2 vehicles. The proposed changes to the pick-up/drop off facility is acceptable for the following reasons:

- The proposed changes to the pick-up/drop-off facilities will reduce the potential queue spillback onto New South Head Road;
- **Condition I.6** requires the proposed development to comply with the Operational Transport Management Plan and the Green Travel Plan;
- Council's Traffic Officer has supported the proposed changes to the pick-up/drop-off facility;

- A high number of students participate in co-curricular activities after school, which off-sets the pick-up times, reducing traffic generation during the afternoon peak times;
- The school facilitates a 'walking group' of approximately 30-40 students that assists students accessing Edgecliff station to further minimum traffic generation.

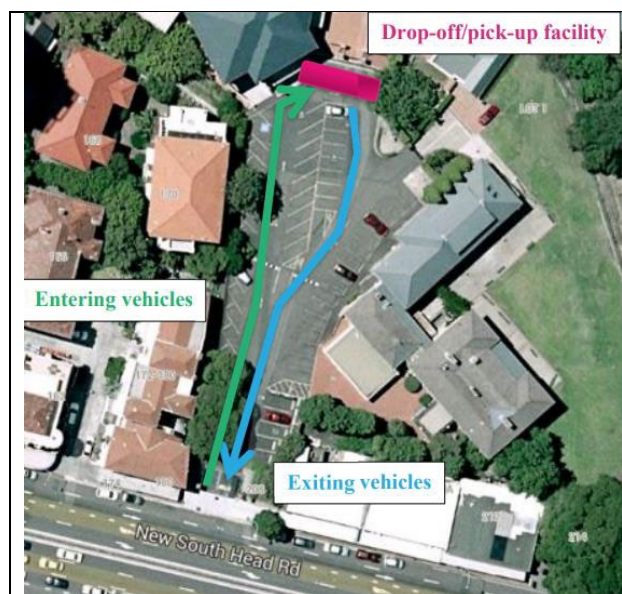


Figure 9: Existing Drop-off/Pick-up facilities to the Junior School

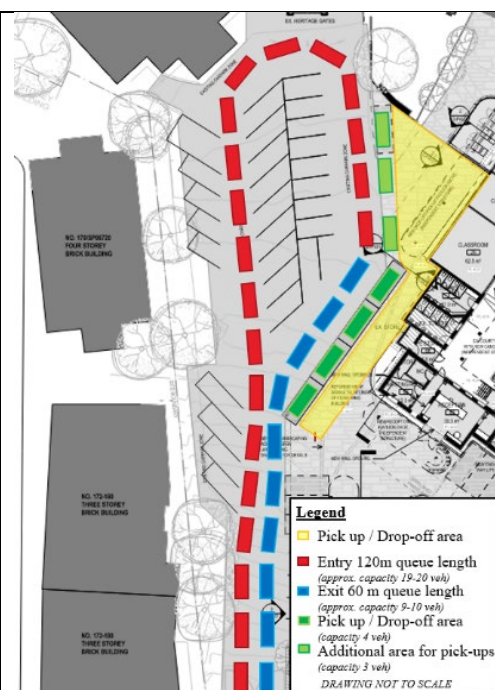


Figure 10: Proposed Pick-up/drop-off facilities to the Junior School

Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter E1 of the Woollahra DCP 2015.

14.5 Chapter E.2 Stormwater and Flood Risk

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

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

The submitted concept stormwater plans are considered satisfactory in principle subject to refinements at the CC stage. Conditions will be imposed to reflect any required changes required at the CC stage. It is noted from the submitted stormwater plan that an OSD system of 120m² will be constructed as part of this application. Stormwater runoff from the development site will be discharged to the existing point of discharge in New South Head Road by gravity. Besides, it is further noted that the applicant has addressed the stormwater quality requirements and that proposal meets the water quality targets.

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

Further to this, **Condition C.14** has been imposed to addresses stormwater management. The proposal, as conditioned, is considered to be acceptable with regard to the provisions of Part E.2 of Woollahra DCP 2015.

14.6 Chapter E5: Waste Management

Chapter E5 is applicable to all development and seeks to establish waste minimisation and sustainable waste management during demolition and construction phases and throughout the on-going use of the building.

The SWMMP addresses volume and type of waste and recyclables to be generated, storage and treatment of waste and recyclables on site, disposal of residual waste and recyclables and operational procedures for ongoing waste management once the development is complete.

The applicant provided a SWMMP with the development application and it was found to be satisfactory.

Part E5.2: Demolition and Construction Phase

C2 and C3 promote reuse of salvaged and excess construction materials. C4 promotes prefabricated or recycled materials where possible. C5 seeks to minimise site excavation and disturbance.

The proposal is acceptable with regard to Part E5.2 of the Woollahra DCP 2015.

Part E5.3: On-Site Waste and Recycling Controls for all Development

	Existing	Proposed	Control	Complies
Garbage and Recycling Areas	Separated	Separated	Separated	YES
Location of Garbage and Recycling Areas	Behind the building line	Behind the building line	Behind Building Line or Non-Habitable Areas	YES

C2 requires waste storage areas to facilitate the separation of garbage and recycling.

Complies.

C3 and C4 require waste storage areas to be behind the building line or in non-habitable spaces and integrated within the building design.

Complies.

The proposal is acceptable with regard to Part E5.3 of the Woollahra DCP 2015.

Part E5.6: Commercial and Non-Residential Developments

The new development will utilise the existing waste storage and collection arrangements, which are considered to be sufficient and acceptable with regard to Part E5.6.

Conclusion

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

14.7 Chapter E6: Sustainability

Part E6.3: Solar Energy Systems

	Existing	Proposed	Control	Complies
Maximum Projection Above Roof Surface	<300mm	<300mm	300mm	YES
Location of Solar Energy System	Behind the front Setback	Behind the front Setback	Behind the Front Setback	YES

C1 limits solar equipment to 300mm above the roof surface and behind the front setback. It is not to consist of mirrors or lenses and where it is in a heritage conservation area, not be located on the roof plane, wall or chimney of the principal building.

Solar panels were originally proposed to the roof of the proposed school hall building at No.208 New South Head Road. These panels were angled upwards and were highly visible from the public domain, contrary to Control C1. These solar panels have been subsequently deleted by the amended proposal. The remaining solar panels to the 'Fiona' building addition (modern addition) will not be visible from the public domain and comply with Control C1.

C2 requires that solar energy systems must not have an unreasonable visual impact upon the streetscape or area, views from Sydney Harbour, adjoining properties or views from private property.

The amended proposal complies with Control C2, as the remaining solar panels will not be visible from the streetscape and are acceptable in this regard.

Conclusion

The proposal is acceptable with regard to the objectives and controls in Chapter E6 of the Woollahra DCP 2015.

14.8 Chapter F2: Educational Establishments

Part F2.2: Building and Urban Design

C1 requires high architectural design, materials and detailing.

The amended proposal has a high quality design, materiality and detailing. Council's Heritage Officer has stated the proposal would not detract from the heritage significance of the site and has been designed to sympathetically distinguish between original and new fabric.

C2 requires a distinguishable entry point from the street.

A new entry court to the school hall building facing New South Head Road (No.208 New South Head Road) has been proposed. This new pedestrian entrance will enhance the legibility of the site and its streetscape presentation. In addition to this, a new reception area (located within the Fiona building, servants wing) and an improved pick-up/drop-off facility has been proposed as part of this development. These improvements will further improve the legibility of the site and will reduce pedestrians/vehicle conflicts.

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

The amended development fronts New South Head Road and is considered to be compatible with the height, bulk, scale and materiality of surrounding development.

C2 and C3 state that side and rear setbacks are to be such that sunlight is provided to adjoining properties to 50% or 35m² (with minimum dimension 2.5m), whichever is smaller of the main ground level private open space of adjacent properties for a minimum of two hours between 9am and 3pm on June 21. Where it is already greater than this, it is not to be further reduced.

The submitted shadow diagrams have demonstrated that the proposed development does not result in the loss of any solar access to adjoining habitable room windows or private open space.

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

The proposed works are sufficiently setback from the side and rear boundaries to protect the visual and acoustic privacy of surrounding residential properties.

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

The amended development and **Condition C.1(e)** has lowered the overall height of the school hall building at No.208 New South Head Road, to allow for views of the heritage listed 'Fiona' building obtained from the public domain to be improved.

Part F2.3: Siting of Development

C1 Development complies with the street setback controls that apply to the precinct or centre where the centre is proposed. (Refer to the relevant residential or business centre controls in Part B, C or D of this DCP.)

The proposed siting of the school hall building to No.208 New South Head Road on the front boundary is consistent with the front setback requirements and is acceptable in this regard.

C4 Rear and side setbacks of the building are setback to maintain the amenity of the adjoining development, taking into account privacy and noise generation.

The proposed rear and side setbacks of the building to No.208 New South Head Road and the additions to the 'Fiona' building will maintain the visual and acoustic privacy of surrounding properties and are acceptable in this regard.

C5 Development provides visual privacy to adjoining properties by appropriate design, vegetative screening, window and door offset, location of external areas such as roof top terraces, screening devices, separation distances and the like.

Fiona Addition:

The proposed building works have been suitably screened and separated to protect the visual privacy of surrounding properties.

No.208 New South Head Road:

The proposed building is sufficiently separated from surrounding residential properties to ensure the visual privacy of nearby properties is maintained.

Landscape works:

C6 Development is sited so significant views and vistas from the public domain are maintained.

The proposed siting of the development does not result in the loss of any views to the heritage listed 'Fiona' building from the public domain.

C7 Development provides for view sharing from surrounding properties.

The proposed development does not result in the loss of any views from surrounding residential properties.

Part F2.4: Heritage Conservation

C1 requires the location of development to not detract from the significance of a heritage item.

The proposed development is not considered to detract from the significance of the heritage items within the site for the following reasons:

- The form and siting of the alterations and additions to the modern wing of the 'Fiona' building ensures that the setting and curtilage of the heritage significant component of the 'Fiona' building is respected;
- The proposed development will generally retain original internal fabric to the 'Fiona' building. Only minor demolition works within areas of the building that have been already altered are proposed. The minor changes to the internal layout are considered acceptable, as the original layout of the Fiona building will to be interpreted;
- Council's Heritage Officer has supported the proposed works subject to **Conditions B.3 to B.7, C.1(a), C.1(b), C.1(c), C.2 to C.6, E.7 and F.2.**

C2 requires the retention of views of heritage items from the public domain and view sharing from surrounding properties.

The proposed school hall building to No.208 New South Head Road has been amended and conditioned to improve views to the heritage listed 'Fiona' building from the public domain. The remainder of the proposed works do not obstruct views of any heritage items from the public domain and are acceptable in this regard.

C3 requires the retention of heritage fences and development that responds to the heritage significance of surrounding fences.

No works have been proposed to the heritage listed former entrance gates and sandstone retaining walls located at the front of the site. Conditions of consent has been recommended to ensure that new works including the new entry court do not impact on these significant heritage listed elements, refer to **Condition C.2, C.3 and C.4.**

C4 requires development to respond sympathetically to the significance of heritage items.

The proposed development is considered to sympathetically respond to the significance of the heritage items on the site for the following reasons:

- The proposed demolition of the Annexe building located along the southern elevation of the 'Fiona' building is supported on heritage grounds, as it is not an original structure, or an early/significant addition. Further to this, the removal of this structure will improve the setting of this building by opening up views of the southern elevation of the 'Fiona' building;
- The proposed canopies, adjacent to the 'Fiona' building were supported by the Heritage Officer, as these structures have been positioned away from the significant parts of the 'Fiona' building and are self-supporting;

- The proposed contemporary school hall building to No.208 New South Head Road is considered to have a height, form, siting, footprint and materiality that is sympathetic to the surrounding heritage items;
- The proposed solid to void ratios of the new additions have reflected the solid to void ratios of the heritage significant component of the 'Fiona' building.

Chapter F2.5: Open Spaces

C1 requires the retention of open spaces with C2 prohibiting vehicular access on open space.

Open space has been retained and enhanced at the site. No vehicular access will be available to this open space.

C3 requires the maximisation of open space areas.

The overall amount of open space has been generally retained. Substantial landscape works has been proposed, which will improve the quality of the open space available to Junior School students and staff.

C4 requires a playground and C5 requires a sportsfield.

The school provides sufficient open space for students. The proposed works involve the establishment of high quality indoor/outdoor learning environments, which is responsive to the built, natural and cultural heritage of the 'Fiona' building and the overall Ascham School campus. Substantial landscape works have been proposed, as part of this development including landscape embankments and additional seating areas to provide improved student amenity. New pavilion structures to existing playgrounds will allow access to outdoor spaces in all weather conditions.

Part F2.6: Traffic, Parking and Access

	Existing	Proposed	Control	Complies
Pedestrian Entrance	Separate	Separate	Separated from Vehicle Entrance	YES
Pedestrian Access	All frontages	All frontages	Via All Frontages	YES

C1 states that development must not unreasonably impact on the surrounding road network, pedestrian safety and vehicle traffic.

The amended development will improve the existing traffic and pedestrian safety within and surrounding the site. This has been further discussed above in **Section 14.4**.

C2 requires pedestrian access via all frontages and C3 requires that it be separated from vehicular access. C4 notes that access must be equitable in accordance with Chapter E1.

Separated pedestrian access is provided via all street frontages.

C5 requires a pedestrian area to accommodate key concentrated times such as pick up time. C6 requires an internal driveway for drop off and pick up.

The proposed development involves improvements to the pick-up/drop-off arrangements for the Junior School (Years 3-6). It has been proposed to reconfigure the existing internal drop-off/pick-up facility located off New South Head Road. The proposed reconfigured pick-up/drop-off area will provide approximately 30m of additional queuing capacity for vehicles entering the carpark, refer to

Figure 10. The new pick-up/drop off facility would have adequate space for 7 simultaneous pick-ups/drop-offs, whereas currently there is only space for 2 vehicles.

A new pavilion structure to the front of the 'Fiona' building addition is proposed adjacent to the reconfigured vehicle pick-up/drop-off area, which will improve the pedestrian and vehicle relationship.

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

The proposed development does not comply with the minimum car parking requirements. This non-compliance with the minimum car parking control was supported by Council's Traffic Department, for reasons discussed in **Section 14.4** above. Emergency vehicle access will be maintained by the development.

C9 requires bicycle parking with C10 specifying it at a rate of 5% of staff numbers and 10% of student numbers.

No changes to the existing student and staff numbers have been proposed as part of this proposal, thus no additional bicycle parking facilities have been proposed. This is discussed further above in **Section 14.4**.

Part F2.7: Planting, Fencing and Hard Surfaces

C1 requires the retention of significant trees with C2 noting that there is to be no damage to trees on adjoining properties.

The proposed development involves the removal of 14 trees from the site. Council's Landscape Officer has considered these trees to be of low retention value and 26 replacement trees have been proposed to be planted on the site. The proposed development would not result in any damage to any trees located on surrounding properties, however conditions of consent including a tree damage security deposit have been recommended to ensure the street tree (the Queensland Box tree) located adjacent to the New South Head Road driveway is protected during the construction process.

C3 provides for shade for play, screening, microclimate, soil stabilisation and visual quality. C4 notes that the landscape design is to be coordinated with the streetscape, site conditions, building design and type, scale and location of adjoining development.

A new canopy over the existing Fiona courtyard and a new wet weather pavilion to the playground to the rear of the Fiona addition has been proposed. The proposed development includes a well-designed landscape plan, which will significantly improve the landscape setting of the surrounding buildings, including the heritage listed 'Fiona' building. The proposed new landscaping will provide for improved outdoor learning spaces and an overall increased tree canopy within the site (including the use of mostly native species).



Figure 11: Indicative perspective of the elevated platform with arbour and climbing plants to rear of the new addition to the Fiona building (modern wing)

Figure 12: Indicative perspective of elevated platforms above the existing landscape embankment to the rear of the Fiona building.

C6 requires that planting and fencing does not disrupt public and private views and C7 requires fences to be at least 50% open for this purpose.

The proposed planting will not disrupt views from the public or private domain. No new site fencing has been proposed.

Part F2.8: Community Use

C3 states that lighting, noise, hours and intensity of use should not impact upon surrounding residents.

No change to the existing hours of operations have been proposed, as part of this proposal. Condition of consent have been recommended to ensure the proposal does not adversely affect the amenity of surrounding properties in terms of acoustic privacy or light spill.

C4 requires that vehicular and pedestrian access does not disrupt the surrounding road network and C5 requires that parking is provided on site.

The proposed changes to the vehicular drop-off/pick-up will improve the traffic flows and vehicular queuing on New South Head Road. This has been further discussed above in **Section 14.4** of this report.

Conclusion

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

15. SECTION 94 CONTRIBUTION PLANS

15.1 Section 94A Contributions Plan 2011

In accordance with Schedule 1, a 1% levy applies with the monies being used for a variety of works as outlined in Schedule 2 of the Section 94A Contributions Plan 2011. Refer to **Condition C.7**.

Cost of Works	Rate	Contribution Payable
\$8,921,264	1%	\$89,212.64

15.2 Application of Contributions

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

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

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

16. APPLICABLE ACTS/REGULATIONS

16.1 Environmental Planning and Assessment Regulation 2000

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

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires Council to consider Australian Standard AS 2601-2004: The demolition of structures. The proposal is considered to be acceptable, subject to **Condition E.1**.

Clause 94: Consent Authority May Require Buildings to be Upgraded

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

Council's Fire Safety Officer has undertaken an assessment of the application, as detailed in **Annexure 9**. Building upgrade is required in **Condition C.8** and an annual fire safety schedule is required to be submitted as detailed in **Condition I.4**.

17. THE LIKELY IMPACTS OF THE PROPOSAL

Student/Staff Numbers:

No increase to staff or student numbers has been sought by this development. **Condition I.1** of DA550/2013 limits the number of students to 1240 inclusive of 135 boarders (enrolled students). A condition of consent is recommended that requires the existing staff and student cap imposed under DA550/2013 be retained, refer to **Condition I.1**.

Hours of Use:

The proposed development will not result in any change to the current hours of operation for the school, which are currently: Monday to Sunday: **7.30am to 5.00pm**.

In 2018 a neighbouring resident from Greenoaks Ave Darling Point enquired about the hours of operation of the Ascham music hall (CRM 18/54036). A review of Council records revealed DA057/79 relates to the theatre and music rooms, but the consent does not specify hours of operation; DA550/2013 permits the science building to be used between 7am-10pm Monday to Sunday and the roof terrace of Duntrim House between 9am-10pm Monday to Sunday; and DA507/2016 permits the English Centre building to be used between 7am-10pm Monday-Sunday.

It is recommended that a condition be imposed to limit the hours of operation of the new development to: Monday to Sunday: **7.30am to 5.00pm**, refer to **Condition I.2**.

18. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

19. THE PUBLIC INTEREST

The proposal is considered to be in the public interest.

20. CONCLUSION

The proposal is acceptable against the relevant considerations under Section 4.15.

21. DISCLOSURE STATEMENTS

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

22. RECOMMENDATION: PURSUANT TO SECTION 4.16 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THAT the Sydney Eastern City Planning Panel, as the consent authority, is of the opinion that the written requests from the applicant under Part 4.6 of the Woollahra Local Environmental Plan 2014 to the building height and the floorspace ratio development standards under Clause 4.3 and Clause 4.4 of Woollahra LEP 2014 has adequately addressed the relevant matters and the proposed development will be in the public interest because it is consistent with the relevant objectives of the particular standard and the zone. The Panel assumes the concurrence of the Secretary, Department of Planning, Industry and Environment.

AND

THAT the Sydney Eastern City Planning Panel, as the consent authority, grant development consent to Development Application No. 433/2021/1 for Demolition of existing uniform shop & partial demolition of existing school buildings; construction of new school hall, bathrooms, offices & classrooms; external works including reconfiguration of pick-up/drop-off zone on land at 188 New South Head Road EDGECLIFF, subject to the following conditions:

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 4.16 of the *Environmental Planning and 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 4.15 of the *Act*.

Standard Condition: A1 (Autotext AA1)

A.2 Definitions

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

Applicant means the applicant for this consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

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

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

Council means Woollahra Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Eastern Suburbs" published by the Southern Sydney Regional Organisation of Councils).

Stormwater drainage system means all works, facilities and documentation relating to:

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

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

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

PC means the Principal Certifier 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 meaning as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the Applicant.

Site means the land being developed subject to this consent.

Woollahra LEP means *Woollahra Local Environmental Plan 2014*

Woollahra DCP means *Woollahra Development Control Plan 2015*

Work for the purposes of this consent means:

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

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

Standard Condition: A2 (Autotext AA2)

Note: These plans and supporting documentation may be subject to conditions imposed under section 4.17(1)(g) of the *Act* modifying or amending the development (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)

Standard Condition: A5 (Autotext AA5)

A.4 Ancillary Aspects of Development (section 4.17(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* (2012) unless expressly provided otherwise by these conditions at the Owner's expense.

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

Standard Condition: A8 (Autotext AA8)

A.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	Height by spread (metres)
T2	<i>Magnolia grandiflora</i> Bullbay Magnolia	As per Landscape Plan	10m x 10m
T3	<i>Grevillea robusta</i> Silky Oak		15m x 15m
T5	<i>Lophostemon confertus</i> . Queensland Box		15m x 15m
T6	<i>Lophostemon confertus</i> . Queensland Box		15m x 15m
T7	<i>Lophostemon confertus</i> . Queensland Box		15m x 15m
T15	<i>Cupressus sempervirens</i> Italian cypress		10m x 10m
T18	<i>Camellia sasanqua</i> Camellia		5m x 10m
T19	<i>Populus sp.</i> Poplar		8m x 6m
T20	<i>Ficus macrophylla</i> Moreton Bay Fig		20-30m x 30m
T23	<i>Jacaranda mimosifolia</i> Jacaranda		15m x 20m
T24	<i>Lophostemon confertus</i> Brushbox		20m x 15m
T25	<i>Celtis sinensis</i> Chinese Hackberry		20m x 15m
T26	<i>Magnolia grandiflora</i> Bullbay Magnolia		15m x 20m
T27	<i>Celtis sinensis</i> Chinese Hackberry		10m x 10m

T30	<i>Celtis sinensis</i> Chinese Hackberry		10m x 10m
T31	<i>Celtis sinensis</i> Chinese Hackberry		15m x 20m
T32	<i>Jacaranda mimosifolia</i> Jacaranda		10m x 15m
T33	<i>Bauhinia variegata</i> (Orchid Tree)		10m x 10m
T41	<i>Toona australis</i> Red Cedar		10m x 15m
T180	<i>Ficus macrophylla</i> Moreton Bay Fig		8m x 5m
T217	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine		10m x 5m
T218	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine		10m x 5m
T219	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine		15m x 5m
T220	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine		15m x 5m

- Trees on Council Land

Council Ref No.	Species	Location	Dimension (metres)	Tree Value
T224	<i>Lophostemon confertus</i> . Queensland Box	Public footpath east of driveway	15m x 10m	\$15000

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)
T8	<i>Cupressus sempervirens</i> Italian cypress	As per Landscape Plan	10m x 5m
T9	<i>Cupressus sempervirens</i> Italian cypress		10m x 10m
T10	<i>Cupressus sempervirens</i> Italian cypress		10m x 5m
T11	<i>Cupressus sempervirens</i> Italian cypress		10m x 5m
T12	<i>Cupressus sempervirens</i> Italian cypress		10m x 10m
T13	<i>Cupressocyparis leylandii</i> Leyland Cypress		10m x 5m
T14	<i>Cupressocyparis leylandii</i> Leyland Cypress		10m x 5m
T221	<i>Olea africana</i> African Olive*		4m x 7m
T222	<i>Olea africana</i> African Olive*		4m x 7m
T223	<i>Celtis sinensis</i> Chinese Hackberry		10mx 20m
T37	<i>Cupressus torulosa</i> Bhutan Cypress		15m x 5m
T38	<i>Cupressus torulosa</i> Bhutan Cypress		15m x 5m

T39	<i>Cupressus torulosa</i> Bhutan Cypress		15m x 5m
T40	<i>Cupressus torulosa</i> Bhutan Cypress		15m x 5m

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

*This species is exempt from the WMC DCP Chapter E.3 - Tree Management and can be removed without consent.

A.6 General Terms of Approval – Roads Act 1993 (TfNSW - Classified Roads)

The following general terms of approval have been imposed by Transport for NSW (TfNSW) in relation to classified roads.

1. All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property unlimited in height or depth along the New South Head Road boundary.
2. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on the New South Head Road.
3. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on the New South Head Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

Note: These conditions have not been imposed by Council but are required to be incorporate as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Note: In relation to local roads (not classified roads) development is not integrated development in respect of consent required under section 138 of the *Roads Act 1993* if, in order for the development to be carried out, it requires the development consent of Council and Roads Act Approval of Council. Separate Council approval is required for all works within the road as defined by the *Roads Act 1993* including works:

- 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

Standard Condition: A14 (Autotext AA14)

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

B.1 Noise Control Objectives during Demolition Works

To assist in managing impacts of noise from the demolishing of the existing dwelling and outbuilding on residences and other sensitive land uses, it is recommended that the *NSW Department of Environment & Climate Change: Construction Noise Guideline* be applied to the site to provide a quantitative and qualitative assessment for evaluating performance and compliance of resultant noise from demolishing works of the existing dwelling and outbuilding. In particular reference is made to Table 2 of the *NSW Department of Environment & Climate Change: Construction Noise Guideline* which sets out management levels for noise at residences and other sensitive land uses.

B.2 Construction Certificate Required Prior to Any Demolition

Where demolition is associated with an altered portion of, or an extension to an existing building the demolition of any part of a building is "commencement of erection of building" pursuant to section 6.6 of the *Act*.

In such circumstance all conditions in Part C and Part D of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a Principal Certifier, and Notice of Commencement under the *Act*.

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

Standard Condition: B1 (Autotext BB1)

B.3 Aboriginal Objects – Unexpected Findings

If unexpected Aboriginal objects or bones are found during any activity associated with this consent, you must:

- a) Not further disturb or move these objects or bones.
- b) Immediately cease all work at the particular location.
- c) In the case of suspected human remains, notify NSW Police.
- d) Notify the Heritage NSW Environment Line on 131 555 and the La Perouse LALC on (02) 9311 4282 as soon as practicable and provide available details of the objects or remains and their location.
- e) Not recommence any work at the particular location unless authorised in writing by Heritage NSW. Additional assessment and approval pursuant to the *National Parks and Wildlife Act 1974* may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Definition of Aboriginal object as per the Woollahra Local Environmental Plan 2014: any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Standard Condition: B10 (Autotext BB10)

B.4 Aboriginal Heritage Due Diligence Responsibilities

Nothing in this approval allows to cause harm to an Aboriginal object as defined in the *National Parks & Wildlife Act 1974*. Under the *National Parks & Wildlife Act 1974*, it is an offence to harm Aboriginal 'objects' (consisting of any material evidence of the Aboriginal occupation of NSW) without a valid Aboriginal Heritage Impact Permit under Section 90 of the *Act*. This applies whether the harm occurs either knowingly [s86(1)] or unknowingly [s86(2)].

It is a defence to the strict liability offence of harm to an Aboriginal object under s86(2) if a process of Due Diligence was followed which reasonably determined that the proposed activity would not harm an Aboriginal object.

Standard Condition: B12 (Autotext BB12)

B.5 Aboriginal Heritage Induction

- a) All construction staff and contractors must be made aware of their statutory obligations for Aboriginal heritage under the *National Parks and Wildlife Act 1974*;
- b) An Aboriginal heritage induction is to be delivered by the La Perouse Local Aboriginal Land Council or by a heritage consultant with Aboriginal heritage expertise, if a

representative of the Local Land Council is not able to provide the induction), to explain what Aboriginal heritage may be found and outline the unexpected findings procedures; and documentary evidence demonstrating compliance with a. and b. above being submitted to Council and the Principal Certifier.

Standard Condition: B13 (Autotext BB13)

B.6 Archaeological Features – Unexpected Findings

If unexpected archaeological features are discovered during the works covered by this approval, work must cease immediately in the affected area(s) and the Department of Premier and Cabinet, Community Engagement, Heritage must be notified. Additional assessment and approval pursuant to the Heritage Act 1977 may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Definition of archaeological feature as per the NSW Heritage Manual: Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and shipwrecks. During an archaeological excavation the term 'feature' may be used in a specific sense to refer to any item that is not a structure, a layer or an artefact (for example, a post hole).

Standard Condition: B8

B.7 Recording of Significant or Contributory Buildings Prior to any Demolition or Alteration

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

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

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

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

Material	Minimum Requirement	Repository
Digital Materials	1 copy of photographic report including images	<u>Woollahra Council</u> Report and images (digital version)

The photographic archival recording is to be submitted in a digital format and is to include the following:

- a) Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- b) Floorplans of the internal layout and directional details of photographs taken.
- c) Coloured photographs in 300DPI resolution of:
 - each elevation,

- each structure and landscape feature,
- internal images of each room and significant architectural detailing, and
- views to the subject property from each street and laneway or public space.

Note: Refer to the NSW Office of Environment and Heritage website for the free publication 'Photographic Recording of Heritage Items using Film or Digital Capture' available at www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf

Standard Condition: B2 (Autotext BB2)

B.8 Identification of Hazardous Material

In accordance with Australian Standard AS2601: *The Demolition of Structures*, the Owner shall identify all hazardous substances located on the site including asbestos, polychlorinated biphenyls (PCBs), lead paint, underground storage tanks, chemicals, etc. per clause 1.6.1 of the Standard.

In this regard, **prior to the commencement of any work**, Council shall be provided with a written report prepared by a suitably qualified competent person detailing:

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

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

Standard Condition: B6

B.9 Public Road Assets Prior to Any Work/Demolition

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

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

- road pavement,
- kerb and gutter,
- footway including footpath pavement and driveways,
- retaining walls within the footway or road, and
- drainage structures/pits.

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

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

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

B.10 Establishment of Tree Protection Zone (TPZ) Fence

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	Tree Location	Fence Radius from Centre of Trunk (Metres)
T19	<i>Populus sp.</i> Poplar	As per Landscape Plan	1.5
T20	<i>Ficus macrophylla</i> Moreton Bay Fig		Fencing embankment along the perimeter of the proposed platforms
T23	<i>Jacaranda mimosifolia</i> Jacaranda		
T24	<i>Lophostemon confertus</i> Brushbox		
T25	<i>Celtis sinensis</i> Chinese Hackberry		
T26	<i>Magnolia grandiflora</i> Bullbay Magnolia		
T27	<i>Celtis sinensis</i> Chinese Hackberry		
T30	<i>Celtis sinensis</i> Chinese Hackberry		
T31	<i>Celtis sinensis</i> Chinese Hackberry		
T32	<i>Jacaranda mimosifolia</i> Jacaranda		
T33	<i>Bauhinia variegata</i> (Orchid Tree)		
T41	<i>Toona australis</i> Red Cedar		1.5
T180	<i>Ficus macrophylla</i> Moreton Bay Fig		1.5
T224	<i>Lophostemon confertus</i> . Queensland Box	Public footpath Opposite driveway	1.5

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 bought onto the site and before the commencement of works including demolition. The area within the fence shall be mulched and maintained to a depth of 75mm. The soil within

the TPZ shall be kept in a moist condition for the duration of the construction works. Unless approved by the site arborist there shall be no access within the TPZ.

- c) Trunk protection shall be installed around the trunks of the following trees:

Council Ref No.	Species
T15	<i>Cupressus sempervirens</i> Italian Cypress
T18	<i>Camellia sasanqua</i> Camellia
T217	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine
T218	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine
T219	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine
T220	<i>Cupressus sempervirens</i> 'Stricta' Pencil Pine

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) 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 this consent.
- g) The site foreman must be made aware of all tree protection requirements associated with these conditions of consent by the project arborist. Any subsequent site personnel and contractors to the site must be made aware of all tree protection requirements by the site foreman.
- h) The project arborist shall provide written certification of compliance with the above condition.

B.11 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
	All trees to be retained	Within TPZ	Excavation for piers under arborist supervision. Decking around trees must be constructed providing sufficient clearance to the trunks to allow for future growth

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

B.12 Demolition and Construction Management Plan

The Demolition and Construction Management Plan shall be reviewed and certified by the Project Arborist that appropriate tree protection measures have been accounted for. The Demolition and Construction Management Plan shall be prepared in accordance with all tree protection measures specified within this consent. Considerations by the Project Arborist shall include but not be limited to:

- a) Drawings and method statement showing details and the location of hoarding and scaffold and any pruning required to accommodate the hoarding and scaffolding;
- b) The movement and positioning of heavy machinery, lifting cranes, pier drilling gantry etc;
- c) Site construction access, temporary crossings and movement corridors on the site defined;
- d) Contractors car parking;
- e) Phasing of construction works;
- f) The space needed for all foundation excavations and construction works;
- g) All changes in ground level;
- h) Space for site sheds and other temporary structures such as toilets;
- i) Space for sorting and storing materials (short or long term), spoil and fuel and the mixing of cement and concrete; and
- j) The effects of slope on the movement of potentially harmful liquid spillages towards or into tree protection areas

B.13 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; and
- 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
Demolition of structures within TPZ's	Condition of exposed roots
Excavation within TPZ's	Supervise works. Compliance with tree protection measures
Inspection of pier holes within TPZ's	Piers positioned to avoid the severance of and damage to roots greater than 50mm
Prior to the issue of a Final Occupation Certificate	Supervise the dismantling of tree protection measures and compliance with this consent

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

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

C. Conditions which must be satisfied prior to the issue of any Construction Certificate

C.1 Modification of Details of the Development (section 4.17(1)(g) of the Act)

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

a) Unpainted/un-rendered surfaces:

To protect the character and appearance of the heritage listed 'Fiona' building the existing exposed, unpainted and un-rendered stone/masonry walls/fabric within the 'Fiona' building must remain un-rendered or unpainted;

b) Window Frames:

To protect the character and appearance of the heritage listed 'Fiona' building, the proposed window/door frames to be installed within the new openings to the southern elevation to the 'Fiona' servant's wing must be a similar thickness to traditional timber window frames;

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

c) Door Frames/openings:

To protect the character of the heritage listed 'Fiona' building the proposed openings within the interior of the 'Fiona' building at all levels must be timber framed and any new interior doors must to be timber;

d) Fire Hydrant/sprinkler booster:

To ensure that all works remain within the site boundaries, the proposed hinged doors to the new fire hydrant and sprinkler booster cupboard located on the front boundary of the site (facing New South Head Road) must not swing over Council property. These doors must be either removed or replaced with a roller door;

e) Plant Equipment:

To protect the visual amenity of the streetscape and to maximise public views of the heritage listed 'Fiona' building the proposed plant equipment and the associated screen must be deleted from the roof of the school hall building at No.208 New South Head Road. The plant equipment may be relocated elsewhere on the site in a location that is not visible from the public domain.

Details in accordance with this condition are to be submitted and approved by Council prior to the issue of a Construction Certificate.

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 4.15 of the *Act*.

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

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

Standard Condition: C4 (Autotext CC4)

C.2 Protection of Significant Fabric

Prior to the issue of a Construction Certificate, Council must be provided with a Heritage Protection Plan certified by an experienced and suitably qualified Heritage Architect detailing how significant original fabric of the existing building is to be protected during site preparation and construction works from potential damage. This includes the general construction works to and surrounding the 'Fiona' building, works to the southern elevation of the 'Fiona' building, as well as the internal works within the 'Fiona' building including but not limited to the introduction of the new lift. All works are to be undertaken in accordance with the Australia ICOMOS Burra Charter 2013.

The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building. Equipment laydown areas and contractor vehicles must be located away from the heritage structures and areas of heritage significance to minimise any potential impact to the external or internal fabric. Contractor's vehicles must not be parked near heritage structures or landscaped areas which could inadvertently be damaged. Protection measures recommended in the Heritage protection plan are to be specified in the construction management plan.

Significant fabric of the basement, ground floor, first floor and second floor levels of the 'Fiona' building are to be protected and retained during the introduction of the new lift. This includes fireplaces and mantles, original windows, walls, internal and external joinery, cornices, and chimney flues. In addition, original openings are to be interpreted. The detailing of how this fabric is to be protected is to be prepared in consultation with a suitably qualified heritage architect and is to be included in the Schedule of Conservation Works to be submitted to Council's Heritage Officer.

C.3 Schedule of Conservation Works

Prior to the issue of the Construction Certificate, Council's Heritage Officer must be provided with a Schedule of Conservation Works with detailed documentation of the conservation works to the significant fabric of the 'Fiona' building. More specifically, the Schedule of Conservation Works is to address the reinstatement works to the southern façade of 'Fiona' and the internal works. The Schedule of Conservation Works is to be prepared by a qualified Heritage Architect in accordance with the Australia ICOMOS Burra Charter 2013.

The schedule is to detail the conservation of all significant fabric. The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.

C.4 Heritage Architect Supervision

Prior to the issue of a Construction Certificate, Council must be provided with the details of an experienced suitably qualified & Heritage Architect who will be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

The heritage architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Minutes of the heritage architect's regular inspections and a final sign off are to be provided to Council prior to the issue of an Occupation Certificate.

C.5 Heritage Interpretation Plan

Prior to the issue of a Construction Certificate, Council's Heritage Officer must be provided with an amended Heritage Interpretation Plan for the 'Fiona' building. The plan is to be prepared by a suitably qualified and experienced heritage practitioner, interpretation specialist or historian in accordance with the 'Heritage Interpretation Policy' published by the Heritage Council of NSW and the NSW Department of Planning in August 2005 and 'Heritage Information. Series, Interpreting Heritage Places and Items Guidelines' published by the former NSW Heritage Office in August 2005.

The interpretation plan must detail how archival, oral and other specific historical information regarding the historical development and significance of the 'Fiona' building will be provided for the public and make recommendations regarding public accessibility, interpretive panels and plaques. The plan must specify the location, type, details, materials and content of the interpretation device/s being proposed.

C.6 Tradespeople

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with details of the tradespeople. Works to the 'Fiona' building are to be carried out by suitably qualified and experienced tradespeople with prior experience in working with heritage buildings.

C.7 Payment of Long Service Levy, Security, Contributions and Fees

The Certifying Authority must not issue any certificates under section 6.4 of the *Act* 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 <i>Building and Construction Industry Long Service Payments Act 1986</i>			
Long Service Levy www.longservice.nsw.gov.au/bci/levy/other-information/levy-calculator	Contact LSL Corporation or use online calculator	No	

SECURITY under section 4.17(6) of the <i>Environmental Planning and Assessment Act 1979</i>			
Property Damage Security Deposit - making good any damage caused to any property of the Council	\$213 560	No	T115
Tree Damage Security Deposit – making good any damage caused to any public tree	\$15 000	No	T114
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 7.12)	\$89,212.64 + Index Amount	Yes, quarterly	T96
INSPECTION FEES under section 608 of the <i>Local Government Act 1993</i>			
Public Tree Management Inspection Fee	\$200	No	T45
Security Administration Fee	\$202	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$318 174.64 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 Service Corporation or to Council. Further information can be obtained from the Long Service Corporation website www.longservice.nsw.gov.au or the Long Service Corporation on 131 441.

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 7.12 levy (formerly known as 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 levy.

Do you need HELP indexing the levy?

Please contact Council's Customer Service Team on ph 9391 7000. Failure to correctly calculate the adjusted development levy will delay the issue of any certificate issued under section 6.4 of the *Act* and could void any such certificate (eg Construction Certificate, Subdivision Certificate, or Occupation Certificate).

Deferred or periodic payment of section 7.12 levy (formerly known as 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 7.12 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 7.12 levy will be adjusted in accordance with clause 3.13 of the Plan. The Applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

Standard Condition: C5

C.8 Building upgrade (Clause 94 of the Regulation)

Council considers, pursuant to clause 94 of the *Regulation*, that it is appropriate to require the existing building to be brought into total conformity with the BCA because the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls.

Accordingly, it is considered appropriate to require the existing building to be brought into total conformity with the BCA and the Construction Certificate plans and specification required to be submitted to the Certifying Authority pursuant to clause 139 of the *Regulation* must detail building upgrade works required by this condition.

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

Note: The Certifying Authority issuing the Construction Certificate has no power to remove the requirement to upgrade the existing building as required by this condition. Where this condition specifies compliance with performance requirements of the BCA the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters. Where this condition specifies compliance with prescriptive (Deemed-to-Satisfy) provisions of the BCA these prescriptive requirements must be satisfied and cannot be varied unless this condition is reviewed Part 8 Division 8.2 or amended under section 4.55 of the *Act*.

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

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

Standard Condition: C10 (Autotext CC10)

C.9 Tree Management Plan

The *Construction Certificate* plans and specifications shall 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 or transplant method statement.

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

C.10 Soil and Water Management Plan – Submission and 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*” 2004 published by the NSW Government (*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 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*” publication can be downloaded from www.woollahra.nsw.gov.au, and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm.

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

Standard Condition: C25

C.11 Structural Adequacy of Existing Supporting Structures

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

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

Standard Condition: C35 (Autotext CC35)

C.12 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, hydrogeological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation.

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

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

Standard Condition: C36

C.13 Geotechnical and Hydrogeological Design, Certification and Monitoring

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

These details must be certified by the professional engineer to:

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

- details recommended hold points to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- details a contingency plan.

Standard Condition: C40 (Autotext: CC40)

C.14 Stormwater Management Plan

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

- a) General design in accordance with stormwater management report, referenced 301350266-SWMP_001-Rev C, prepared by Stantec Australia P/L, dated 1 June 2021, other than amended by this and other conditions;
- b) The discharge of stormwater from the proposed OSD system shall be made, by direct connection, to the TfNSW's underground drainage system in New South Head Road by gravity;
- c) The installation of on-site detention (OSD) system with minimum storage capacity of 120m³. Stormwater runoff from the development site shall be directed to the proposed OSD system;
- d) The installation of stormwater quality treatment system to satisfy the water quality targets that are stipulated in Chapter E2.2.3 of Council's DCP. This includes but not limited to the installation of 6 x 690 PSORB StormFilter Cartridges and 5 x Enviropod by Ocean Protect;
- e) The installation of minimum 65m² raingardens for stormwater quality controls;
- f) Compliance the objectives and performance requirements of the BCA;
- g) General compliance with the Council's Woollahra DCP 2015 Chapter E2 – Stormwater and Flood Risk Management.

OSR Requirements

The minimum (OSD) Site Storage Requirements ("SSR") and the Peak Site Discharge ("PSD") from the site must be 120m³ and 204l/s.

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

Layout plan

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

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

On-site Detention (OSD) details:

- a) Any potential conflict between existing and proposed trees and vegetation,
- b) Internal dimensions and volume of the proposed detention storage,
- c) Diameter of the outlet to the proposed detention storage basin,
- d) Plans, elevations and sections showing the detention storage basin invert level, centre-line level of outlet, top water level, finished surface level and adjacent structures,
- e) Details of access and maintenance facilities,

- f) Construction and structural details of all tanks and pits and/or manufacturer's specifications for proprietary products,
- g) Details of the emergency overland flow-path (to an approved Council drainage point) in the event of a blockage to the on-site detention system,
- h) Non-removable fixing details for orifice plates where used,

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

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

Standard Condition: C.51 (Autotext CC51)

C.15 Light & Ventilation

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

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

Standard Condition C59

C.16 Acoustic Certification of Mechanical Plant & Equipment

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

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

Where sound attenuation is required this must be detailed.

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

1. Australian Acoustical Society—professional society of noise-related professionals (www.acoustics.asn.au/index.php).

2. Association of Australian Acoustical Consultants—professional society of noise related professionals (www.aaac.org.au).
Standard Condition: C62

C.17 Ventilation - Internal Sanitary Rooms

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

C.18 Electric vehicle circuitry and electric vehicle charging point requirements

An accurate electrical plan of all off-street car parking spaces must be prepared by a suitably qualified person and it must include details and specifications to illustrate how the off-street car parking spaces will be constructed with the capacity to install at a minimum, a 'Level 2' (single phase, 7Kw power) electric vehicle charger point. This plan must be submitted to the certifier, prior to the issue of the construction certificate.

Standard Condition: C58 (Autotext CC58)

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 4.17(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*, or
- b) to the erection of a temporary building.

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

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

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

D.2 Adjoining Buildings Founded on Loose Foundation Materials

The Principal Contractor must ensure that a professional engineer determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The professional engineer (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a

case by case basis and the Principal Contractor must comply with any reasonable direction of the professional engineer.

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

Standard Condition: D6 (Autotext DD6)

D.3 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to lack of on-street parking a Work Zone may be required during construction.

The Principal Contractor or Owner must submit an application for approval of the CMP by Council's Traffic Engineer and pay all fees associated with the application.

The CMP 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 demolition, excavation and construction works are to be undertaken on school days, all vehicular movements associated with this work shall only be undertaken between the hours of 9.30am and 2.30pm, in order to minimise disruption to the traffic network during school pick up and drop off times.
- q) Show the location of all Tree Protection (Exclusion) zones (Note: storage of building materials or access through Reserve will not be permitted without prior approval by Council).

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

D.4 Works (Construction) Zone – Approval and Implementation

A Works Zone may be required for this development. The Principal Contractor or Owner can apply for a works zone. If the works zone is approved the Principal Contractor or Owner must pay all fees for this Works Zone before it can be installed.

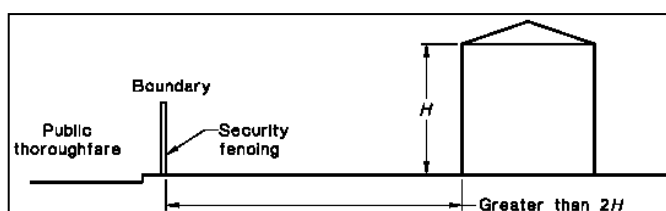
The Principal Contractor must pay all fees associated with the application and occupation and use of the road as a Works Zone. All Works Zone signs must have been erected by Council to permit enforcement of the Works Zone by Council's Rangers and NSW Police before commencement of any work. Signs are 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 Maritime Services under section 50 of the *Transport Administration Act 1988*.

Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The Principal Contractor must report any breach of the works zone to either Council or the NSW Police Service.
Standard Condition: D10 (Autotext DD10)

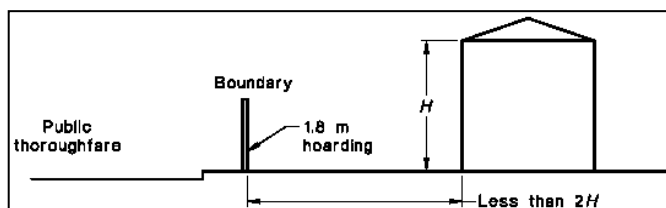
D.5 Security Fencing, Hoarding (including 'Creative Hoardings') and Overhead Protection

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.



Type A Hoarding

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 1.8m adjacent to the thoroughfare.



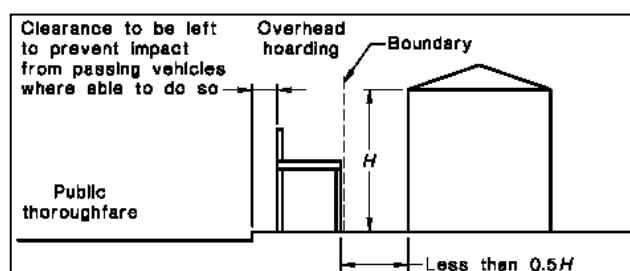
Type B Hoarding

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

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

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

- extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary,
- have a clear height above the footpath of not less than 2.1m,
- 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 0.5m above the platform surface, and
- together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The Principal Contractor or Owner-builder must ensure that overhead protective structures are installed and maintained in accordance with the NSW "Code of Practice - Overhead Protective Structures 1995". This is code available at www.safework.nsw.gov.au/_data/assets/pdf_file/0008/52883/Overhead-protective-structures-Code-of-practice.pdf

All Hoardings

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

Hoardings on Public Land including 'Creative Hoardings'

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.

A creative hoarding (i.e. an approved artwork or historic image affixed to the hoarding) is required if the hoarding meets the criteria in Council's Creative Hoardings Policy (adopted March 2020). The cost of printing and affixing the creative hoarding is the responsibility of the Principal Contractor or Owner-builder. The Creative Hoardings Policy can be downloaded from Council's website www.woollahra.nsw.gov.au

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.

Note: Council seeks to increase public art in the public domain by requiring artwork or historic images on hoardings located on public land. Under the Creative Hoardings Policy an application for a hoarding proposed on public land will require an approved artwork or historic image affixed to the hoarding if the hoarding meets the criteria in section 3 of the Policy:

- A. Hoardings proposed on land zoned B2 Local Centre, or B4 Mixed Use, or SP2 Infrastructure under Woollahra Local Environmental Plan 2014 AND erected for 8 weeks or more
OR
- B. Hoardings proposed on land located along a State classified road (regardless of the zone) AND erected for 8 weeks or more
OR
- C. Hoardings proposed in any other location than that referred to in A. and B. above AND erected for 12 weeks or more, except where:
 - i. the capital investment value of the work to which the hoarding relates is less than \$1 million
OR
 - ii. the land is zoned R2 Low Density Residential
OR
 - iii. the land is zoned R3 Medium Density Residential and the hoarding located in a lane or street that does not have through traffic (eg a cul-de-sac or no through road).

Artwork and historic images for the hoardings are assessed and approved in accordance with the Creative Hoardings Policy. Details of the artwork or images proposed to be affixed to the hoardings must be submitted with Council's form "Application for a permit to use a footpath for the erection of a hoarding/scaffolding".

The Creative Hoardings Policy can be downloaded from www.woollahra.nsw.gov.au or for more information contact Council's Cultural Development Team.

Standard Condition: D11 (Autotext DD11)

D.6 Site Signs

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

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 4.17(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 Certifier 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 6.28 of the *Act*, to comply with the Building Code of Australia.

Clause 227A of the *Regulation* provides:

Signs on development sites

If there is a person who is the Principal Certifier 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 Principal Certifier it will provide the sign to the Principal Contractor or Owner-builder who must ensure that the sign is erected and maintained as required by clause 98A and clause 227A of the *Regulation*.

Standard Condition: D12 (Autotext DD12)

D.7 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 SafeWork NSW requirements.

Standard Condition: D13 (Autotext DD13)

D.8 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*” 2004 published by the NSW Government (*The Blue Book*).

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

Note: The International Erosion Control Association – Australasia (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” publication can be downloaded from www.woollahra.nsw.gov.au and *The Blue Book* is available at www.environment.nsw.gov.au/stormwater/publications.htm

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

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

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.
Standard Condition: D14 (Autotext DD14)

D.9 Building - Construction Certificate, Appointment of Principal Certifier, Appointment of Principal Contractor and Notice of Commencement (Part 6, Division 6.3 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 Certifier for the building work, and
 - notified the Principal Certifier that the person will carry out the building work as an Owner-builder, if that is the case, and
- c) The Principal Certifier 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 Certifier 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 1.4 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 6.1 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 6.6(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, PC 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 6.6(2) of the *Act*.
Standard Condition: D15 (Autotext DD15)

E. Conditions which must be satisfied during any development work

E.1 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601—2001: *The Demolition of Structures*.

Standard Condition: E2 (Autotext EE2)

E.2 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times. A copy of the CMP must be kept on-site at all times and made available to the Principal Certifier or Council on request.

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

Standard Condition: E3 (Autotext EE3)

E.3 Requirement to Notify about New Evidence

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

Standard Condition: E4 (Autotext EE4)

E.4 Critical Stage Inspections

Critical stage inspections must be called for by the Principal Contractor or Owner-builder as required by the Principal Certifier, any PC service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the Principal Certifier 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 6.5 of the *Act* or as required by the Principal Certifier and any PC Service Agreement.

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

Note: The PC may, in addition to inspections, require the submission of Compliance Certificates, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.
Standard Condition: E5 (Autotext EE5)

E.5 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) piercing,
 - (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 a separate penalty infringement notice or prosecution.

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

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2017*.

Note: NSW EPA Noise Guide is available at www.epa.nsw.gov.au/noise/nqlg.htm
Standard Condition: E6 (Autotext EE6)

E.6 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 heritage listed street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 148B of the *Road Transport Act 2013*, section 138 of the *Roads Act 1993* or section 68 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.

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

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.

Standard Condition: E7 (Autotext EE7)

E.7 Compliance with Schedule of Conservation Works

All development activities must be carried out in accordance with the approved Schedule of Conservation Works (SCW). All controls in the SCW must be maintained at all times. A copy of the SCW must be kept on-site at all times and made available to the Principal Certifier, tradespeople or Council on request.

E.8 Tree Preservation

All persons must comply with Council's Development Control Plan (DCP) 2015, Chapter E.3 Tree Management 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) The TPZ must be maintained during all development work unless otherwise specified within these conditions of consent.
- c) Decking around trees and other landscape elements must be constructed providing sufficient clearance to the trunks to allow for future growth.

- d) Excavation must cease where tree roots with a diameter exceeding 50mm 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.
- e) 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.9 Replacement/Supplementary trees which must be planted

Any replacement or supplementary tree shall be grown in accordance with Tree stock for landscape use (AS 2303:2018). The replacement tree shall be planted in a *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)
<p>26 trees of the following species, including at least 5 large trees (15m x 8m):</p> <p><i>Angophora costata</i> - Smooth-barked Apple</p> <p><i>Acacia longifolia</i> - Sydney Golden Wattle</p> <p><i>Acacia suaveolens</i> - Wild Sweet Wattle</p> <p><i>Backhousia citriodora</i> - Lemon Myrtle</p> <p><i>Banksia integrifolia</i> - Coast Banksia</p> <p><i>Banksia serrata</i> - Old Man Banksia</p> <p><i>Brachychiton acerifolius</i> Illawarra Flame Tree</p> <p><i>Corymbia gummifera</i> - Red Bloodwood</p> <p><i>Elaeocarpus reticulatus</i> - Blueberry Ash</p> <p><i>Eucalyptus haemastoma</i> - Scribbly Gum</p> <p><i>Tristaniopsis laurina</i> - Water Gum</p> <p><i>Lagerstroemia</i> 'Twilight Magic' - Crepe Myrtle</p> <p><i>Magnolia grandiflora</i> - 'Teddy Bear' Magnolia</p> <p><i>Syzygium australe</i> 'Resilience'</p>	As per Landscape Plan (DWg 21009_DA-2, Rev 5, Aspect Studios)	45L

The project arborist shall document compliance with the above condition.

E.10 Paving in the vicinity of trees

Paving works within the specified radius from the trunks of the following trees shall be constructed in such a way as to ensure that the existing moisture infiltration and gaseous exchange to the tree root system are maintained. When preparing an area for paving within the specified radius the soil surface shall not be skimmed. The new surface shall be established above the former ground level.

Council Ref No.	Species	Location	Radius from centre of trunk (metres)
T20	<i>Ficus macrophylla</i> - Moreton Bay Fig	Southeast	15m

Paving works are to be designed in consultation with a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) and are to utilise such measures as semiporous material.

The project arborist shall document compliance with the above condition.

E.11 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	Location	Radius from centre of trunk (metres)
	All trees to be retained	Along the eastern embankment	Within the embankment
T20	<i>Ficus macrophylla</i> - Moreton Bay Fig	Southeast	15m

The project arborist shall document compliance with the above condition.

E.12 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	Location	Radius from centre of trunk (metres)
	All trees to be retained	Along the eastern embankment	Within the TPZ
T20	<i>Ficus macrophylla</i> - Moreton Bay Fig	Southeast	15m

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 50mm 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 5 or recognised equivalent).

The project arborist shall document compliance with the above condition.

E.13 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	Location	Radius from centre of trunk (metres)
	All trees to be retained	Along the eastern embankment	Within the TPZ
T20	<i>Ficus macrophylla</i> - Moreton Bay Fig	Southeast	15m

Excavations for installation of piers shall be located so that no tree root with a diameter equal to or in excess of 50mm 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 50mm.

The project arborist shall document compliance with the above condition.

E.14 Maintenance of Environmental Controls

The Principal Contractor or Owner-builder must ensure that the following monitoring, measures and controls are maintained:

- erosion and sediment controls,
- dust controls,
- dewatering discharges,
- noise controls,
- vibration monitoring and controls,
- ablutions.

Standard Condition: E11

E.15 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:

- the location and type of monitoring systems to be utilised,
- recommended hold points to allow for inspection and certification of geotechnical and hydrogeological measures by the professional engineer, and
- the contingency plan.

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

Standard Condition: E12 (Autotext EE12)

E.16 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:

- the consent of the owners of such adjoining or supported land to trespass or encroach, or
- an access order under the *Access to Neighbouring Land Act 2000*, or
- an easement under section 88K of the *Conveyancing Act 1919*, or
- an easement under section 40 of the *Land and 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 Regulation 2008* prohibits excavation in the vicinity of roads as follows: **"Excavations adjacent to road** - A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act 1993* for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

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

Standard Condition: E13 (Autotext EE13)

E.17 Erosion and Sediment Controls – Maintenance

The Principal Contractor or Owner-builder must maintain water pollution, erosion and sedimentation controls in accordance with:

- the Soil and Water Management Plan required under this consent,
- "Do it Right On Site, Soil and Water Management for the Construction Industry"* published by the Southern Sydney Regional Organisation of Councils, 2001, and
- "Managing Urban Stormwater - Soils and Construction"* 2004 published by the NSW Government (*The Blue Book*).

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



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

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

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

Standard Condition: E15 (Autotext EE15)

E.18 Disposal of Site Water During Construction

The Principal Contractor or Owner-builder must ensure:

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

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

Standard Condition: E17 (Autotext EE17)

E.19 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The Principal Contractor or Owner-builder must ensure that a registered surveyor 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 Principal Certifier'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 buildings are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

Standard Condition: E20 (Autotext EE20)

E.20 Placement and Use of Skip Bins

The Principal Contractor or Owner-builder must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 68 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 position where a vehicle may lawfully park in accordance with the Australian Road Rules.

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

Standard Condition: E21 (Autotext EE21)

E.21 Prohibition of Burning

There must be no burning of any waste or other materials. The burning of copper chrome arsenate (CCA) or pentachlorophenol (PCP) 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 (Clean Air) Regulation 2010* all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

Standard Condition: E22 (Autotext EE22)

E.22 Dust Mitigation

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

This generally requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed in 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 downloaded from Council's website 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.safework.nsw.gov.au and www.epa.nsw.gov.au. Other specific conditions and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and

airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

Standard Condition: E23 (Autotext EE23)

E.23 Site Waste Minimisation and Management – Demolition

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

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

When implementing the SWMMP the Applicant must ensure:

- a) footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval,
- b) any material moved offsite is transported in accordance with the requirements of the *Protection of the Environment Operations Act 1997*,
- c) waste is only transported to a place that can lawfully be used as a waste facility,
- d) generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the NSW Environment Protection Authority, and relevant occupational health and safety legislation administered by SafeWork NSW, and
- e) evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained.

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

Standard Condition: E31 (Autotext EE31)

E.24 Site Waste Minimisation and Management – Construction

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

- a) the provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work,
- b) arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage,
- c) consider organising to return excess materials to the supplier or manufacturer,
- d) allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation),
- e) clearly 'signpost' the purpose and content of the storage areas,

- f) arrange contractors for the transport, processing and disposal of waste and recycling and ensure that all contractors are aware of the legal requirements for disposing of waste,
- g) promote separate collection bins or areas for the storage of residual waste,
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter,
- i) minimise site disturbance and limit unnecessary excavation,
- j) ensure that all waste is transported to a place that can lawfully be used as a waste facility, and
- k) retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as Council, the NSW EPA or SafeWork NSW.

Standard Condition: E32 (Autotext EE32)

E.25 Asbestos Removal

All asbestos removal work must be carried out safely according to NSW work health and safety legislation.

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

- a) Be undertaken by contractors who hold a current SafeWork NSW “demolition licence” and a current SafeWork NSW “Class A licence” for friable asbestos removal.
- b) Be carried out in accordance with the relevant SafeWork NSW codes of practice.
- c) No asbestos products may be reused on the site.
- d) No asbestos laden skip or bins shall be left in any public place.

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

Standard Condition: E39

E.26 Classification of Hazardous Waste

Prior to the exportation of hazardous waste (including hazardous fill or soil) from the site, the waste materials must be classified in accordance with the provision of the *Protection of the Environment Operations Act 1997* and the NSW EPA *Waste Classification Guidelines, Part1: Classifying Waste, 2014*.

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

Standard Condition: E40

E.27 Disposal of Asbestos and Hazardous Waste

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

Note: This condition is imposed to ensure that asbestos and other hazardous waste is disposed of lawfully under the *Protection of the Environment Operations Act 1997* and relevant NSW EPA requirements.

Standard Condition: E41

E.28 Asbestos Removal Signage

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

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

E.29 Notification of Asbestos Removal

In addition to the requirements for licensed asbestos removalists to give written notice to SafeWork NSW all adjoining properties and those opposite the development site must be notified in writing of the dates and times when asbestos removal is to be conducted.

The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and facsimile numbers and email addresses.

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

E.30 Compliance with Acoustic Report

The Principal Contract / Owner Builder and any subcontractor must comply with the Acoustic Report, referenced 20210178.1 (Rev 2) , prepared by Acoustic Logic, dated 16/06/2021 and the relevant NSW Environmental Protection Authority and NSW Educational SEPP requirements.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 6 of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 6.9 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 6.10 of the Act) unless an Occupation Certificate has been issued in relation to the building or part.

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

F.2 Interpretation Plan

Prior to the issue of an Occupation Certificate and after the Interpretation Plan has been approved by Council, the Certifying Authority is to be provided of the details of the implementation of the approved interpretation plan.

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 Commissioning and Certification of Systems and Works

The Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier 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 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 Certifier may require.

Note: This condition has been imposed to ensure that systems and works as completed meet development standards as defined by the *Act*, comply with the BCA, comply with this consent and so that a public record of works as executed is maintained.

Note: The PC 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 PC must submit to Council, with any Occupation Certificate, copies of WAE plans, Compliance Certificates and evidence of suitability in accordance with Part A2.2 of the BCA upon which the PC has relied in issuing any Occupation Certificate.
Standard Condition: F7 (Autotext FF7)

F.5 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

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

Note: Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.
Standard Condition: F3

F.6 Fire Safety Certificates

In the case of a ***final occupation certificate*** to authorise a person:

- a) to commence occupation or use of a new building, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

Standard Condition: F4

F.7 Certification of Electric Vehicle Charging System

Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by **Condition C.18**.

Standard Condition: F22 (Autotext FF22)

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

No relevant conditions.

H. Conditions which must be satisfied prior to the issue of the Occupation Certificate for the whole of the building

H.1 Landscaping

The *principal contractor* or *owner* must provide to *PCA* a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable to the effect that the works comply with this consent.

Note: This condition has been imposed to ensure that all Landscaping work is completed prior to the issue of the Final Occupation Certificate.

H.2 Positive Covenant and Works-As-Executed Certification of Stormwater Systems

Prior to issue of any Occupation Certificate, stormwater drainage works are to be certified by a professional engineer with works-as-executed drawings prepared by a registered surveyor and submitted for approval by the Principal Certifying Authority detailing:

- a) compliance with conditions of development consent relating to stormwater,
- b) the structural adequacy of the on-site detention system (OSD),
- c) that the works and detention storage volume have been constructed in accordance with the approved construction stormwater management plans,
- d) that the stormwater quality measures have been constructed in accordance with the approved construction stormwater management plans,
- e) pipe invert levels and surface levels to Australian Height Datum, and

- f) 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.

A positive covenant pursuant to section 88E of the *Conveyancing Act 1919* must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions and for the on-going maintenance of the on-site-detention system and/or absorption trenches, including any pumps and sumps incorporated in the development. The wording of the Instrument must be in accordance with Council's standard format and the Instrument must be registered with the NSW Land Registry Services.

Note: The required wording of the Instrument can be downloaded from Council's website www.woollahra.nsw.gov.au. The PC must supply a copy of the WAE plans to Council together with the Final Occupation Certificate.

Note: The Final Occupation Certificate must not be issued until this condition has been satisfied.
Standard Condition: H20 (Autotext HH20)

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

I.1 Staff, pupil and boarder numbers

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

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

I.2 Hours of Use

The hours of use are limited to the following:

- a) Monday to Sunday: **7.30am to 5.00pm**

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

Note: Deliveries to or dispatches from the site must not be made outside these hours. Trading hours may be more onerous than these general hours of use. This condition does not apply to activities such as cleaning which takes place wholly within the building and which are not audible within any adjoining residential dwelling. If internal activities are audible within any adjoining residential dwelling such that they cause a nuisance to the occupiers of such dwelling then such internal activities must not occur outside these hours of use. This condition does not restrict the operation of noise pollution laws.

Standard Condition: I1 (Autotext: I11)

I.3 Ongoing Maintenance of the On-Site-Detention System

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

- a) Permit stormwater to be temporarily detained by the system.
- b) Keep the system clean and free of silt rubbish and debris.
- c) 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 Council.
- d) Carry out the matters referred to in paragraphs (b) and (c) at the owner's expense.
- e) 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.

- f) Permit Council or its authorised agents from time to time upon giving reasonable notice (but at any time 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.
- g) 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.
- h) Where the owner fails to comply with the owner's obligations under this covenant, permit 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.
- i) 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.

Note: 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.

Standard Condition: I29

I.4 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

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

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

Standard Condition: I22

I.5 Provision of Off-Street Parking

The owner and occupier, in compliance with AS2890.3:2015 Parking Facilities - Bicycle Parking Facilities, and AS/NZS 2890.1:2004: Parking Facilities - Off-Street Car Parking, must maintain unimpeded public access to off-street parking as follows:

Use		Number of spaces
Car parking	Front Driveway Fiona Redevelopment Carpark	44
	Fiona Building	5
	Total	49

This condition has been imposed to ensure adequate on-site parking is maintained.

Standard Condition: I21

I.6 Operation in Accordance with Traffic Management Plans

- a) The operation and management of the premises shall be in accordance with the approved Operational Transport Management Plan and Green Travel Plan;
- b) The OPTM and GTP cannot be altered without the written consent of Council;
- c) Monitoring annual reports would be required for a minimum of 5 years post occupation.

Standard Condition: I15 (Autotext: II15)

I.7 Outdoor Lighting – Commercial

Outdoor lighting must comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire and threshold limits must not exceed the level 1 control relevant under tables in AS/NZS 4282:2019.

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

Note: Council may consider, subject to an appropriate Section 4.55 Application, relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

Standard Condition: I50

I.8 Noise Control

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government) and the *NSW Industrial Noise Policy* (www.epa.nsw.gov.au/your-environment/noise/industrial-noise) published by the NSW Environment Protection Authority. Other State Government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres—free mediation service provided by the NSW Government
www.cjc.nsw.gov.au.

NSW Environment Protection Authority— see “noise” section
www.environment.nsw.gov.au/noise.

NSW Government legislation- access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* is available at www.legislation.nsw.gov.au.

Australian Acoustical Society—professional society of noise related professionals
www.acoustics.asn.au.

Association of Australian Acoustical Consultants—professional society of noise related professionals
www.aaac.org.au.

Liquor and Gaming NSW—www.liquorandgaming.nsw.gov.au.

Standard Condition: I56

I.9 Maintenance of Sound Attenuation

Sound attenuation must be maintained in accordance with the *acoustic report*.

Standard Condition: I57

I.10 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.

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

Note: Words in this condition have the same meaning as in the *Noise Policy for Industry* (2017)

[www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-\(2017\)](http://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017))

and *Noise Guide for Local Government* (2013) www.epa.nsw.gov.au/your-environment/noise/regulating-noise/noise-guide-local-government

Standard Condition: I59

J. Miscellaneous Conditions

No relevant conditions.

K. Advisings

K.1 Criminal Offences – Breach of Development Consent and Environmental Laws

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

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

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

Warnings as to potential maximum penalties

Maximum penalties under NSW environmental laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

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

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

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

Standard Advising: K1 (Autotext KK1)

K.2 Dial Before You Dig



The Principal Contractor, Owner-builder or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and dial 1100 Before You Dig or visit www.1100.com.au

When you contact Dial Before You Dig you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.
Standard Advising: K2 (Autotext KK2)

K.3 Commonwealth *Disability Discrimination Act 1992*

The *Disability Discrimination Act 1992* (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, the Woollahra Development Control Plan 2015 Chapter E8 – Adaptable Housing and the BCA does not necessarily satisfy compliance with the DDA.

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

Note: Further advice can be obtained from the Australian Human Rights Commission website www.humanrights.gov.au/our-work/disability-rights/about-disability-rights or call 9284 9600 or 1300 656 419.

Standard Advising: K3 (Autotext KK3)

K.4 NSW Police Service and Road Closures

Council and NSW Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Eastern Suburbs Police Area Command.

Warning: If you partial or full close a road without compliance with Council and NSW Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

Note: Traffic Supervisors at the Eastern Suburbs Police Area Command can be contacted on eastsubtraffic@police.nsw.gov.au or ph 9369 9899.

Standard Advising: K4 (Autotext KK4)

K.5 Building Standards - Guide to Standards and Tolerances

The Principal Certifier does not undertake detailed quality control inspections and the role of the Principal Certifier 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 "NSW Guide to Standards and Tolerances 2017" 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 Principal Certifier does not undertake this role.

Council, as the Principal Certifier or otherwise, does not adjudicate building contract disputes between the Principal Contractor, contractors and the Owner.

Note: For more information on the *NSW Guide to Standards and Tolerances* go to the NSW Fair Trading website www.fairtrading.nsw.gov.au/housing-and-property/building-and-renovating/after-you-build-or-renovate/guide-to-standards-and-tolerances or call 133 220.

Standard Condition: K6 (Autotext KK6)

K.6 SafeWork NSW Requirements

The *Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: For more information go to the SafeWork NSW website www.safework.nsw.gov.au or call 131 050.

Standard Condition: K7 (Autotext KK7)

K.7 Asbestos Removal, Repair or Disturbance

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

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

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

- a) *Work Health and Safety Act 2011*,
- b) *Work Health and Safety Regulation 2017*,
- c) SafeWork NSW “Code of Practice: How to Safely Remove Asbestos” (2016), and
- d) SafeWork NSW “Code of Practice: How to Manage and Control Asbestos in the Workplace” (2016).

Note: For more information go to the SafeWork NSW website on asbestos www.safework.nsw.gov.au/health-and-safety/safety-topics-a-z/asbestos, and www.safework.nsw.gov.au/law-and-policy/legislation-and-codes/codes-of-practice or call 131 050.

Standard Advising: K8 (Autotext KK8)

K.8 Lead Paint

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

Industrial paints may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

Standard Advising: K9 (Autotext KK9)

K.9 Decommissioning of Refrigeration or Air Conditioning Equipment

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person under the *Ozone Protection Act 1989*, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation 1997*.

Standard Advising: K13 (Autotext KK13)

K.10 Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Larissa Holbert, Assessment Officer, on (02) 9391 7118.

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

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

Standard Condition: K14 (Autotext KK14)

K.11 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 4.17 of the *Act*.

The securities will not be released until a Final Occupation Certificate has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

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

www.woollahra.nsw.gov.au

Standard Condition: K15 (Autotext KK15)

K.12 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is

also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17 (Autotext KK17)

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

Woollahra Municipal Development Control Plan (DCP) 2015, Chapter E.3 Tree Management may require that an application be made to Council prior to pruning or removing any tree. The aim is to secure the amenity of trees and preserve the existing landscape within our urban environment.

Before you prune or remove a tree, make sure you read all relevant conditions.

You can obtain a copy of the DCP from Council's website www.woollahra.nsw.gov.au or you may contact Council on 9391-7000 for further advice.

ANNEXURES

1. Plans and elevations
2. Demolition Plans
3. Technical Services referral
4. Traffic referral
5. Landscaping referral
6. Heritage referral
7. Urban Design referral
8. Environmental Health referral
9. Fire Safety referral
10. Drainage referral
11. Compliance referral
12. Road & Maritime referral
13. Sydney Buses referral
14. Acoustic Report
15. Green Travel Plan
16. Traffic & Parking Report
17. Operational Transport Management Plan
18. Landscape Plans
19. Photomontage
20. Shadow Diagrams
21. Cl.4.6 Variation (Height)
22. Cl.4.6 Variation (FSR)
23. Geotechnical Report
24. Survey