

**MINUTES OF PLANNING COMMITTEE MEETING OF
THE COUNCIL OF THE CITY OF RANDWICK
HELD ON TUESDAY, 4TH DECEMBER, 2007 AT 6:34PM**

PRESENT:

The Mayor, Cr B. Notley-Smith (East Ward)

North Ward	-	Crs P Tracey & M Woodsmith
South Ward	-	Crs R Belleli & A White (arrived 6.35pm)
East Ward	-	Crs M Matson (Deputy Chairperson) & D Sullivan (arrived 6.44pm)
West Ward	-	Crs B Hughes, S Nash (Chairperson) & J Procopiadis
Central Ward	-	Crs A Andrews, C Bastic (arrived 6.40pm) & T Seng

OFFICERS PRESENT:

General Manager	Mr R Brownlee
Director, City Services	Mr J Frangoples
Director, City Planning	Ms S Truuvert
Director, Governance & Financial Services	Mr G Banting
Manager Environmental Planning	Ms K Armstrong
Manager Development Assessment	Mr K Kyriacou
Senior Administrative Coordinator	Ms J Hartshorn
Media Officer	Ms A Power

1. APOLOGY/GRANTING OF LEAVE OF ABSENCES.

An apology was received from Cr Daley.

RESOLVED: (Andrews/Belleli) that the apology from Cr Daley, for non-attendance at the Planning Committee Meeting of the Council held on Tuesday, 4th December 2007 be received & accepted.

2. CONFIRMATION OF THE MINUTES.

CONFIRMATION OF THE MINUTES OF THE PLANNING COMMITTEE MEETING HELD ON TUESDAY, 13TH NOVEMBER, 2007.

H96 **RESOLUTION: (Andrews/Procopiadis)** that the Minutes of the Meeting of the Planning Committee held on Tuesday, 13th November, 2007 (copies of which were circulated to all Councillors) be and are hereby confirmed as a correct record of the proceedings of that meeting.

3. DECLARATION OF PECUNIARY & NON-PECUNIARY INTERESTS.

- Cr Belleli declared an interest in Item 6.4 (Development Application Report - 78 Moverly Road, Maroubra) as the applicant is a relative.
- Cr Procopiadis declared a non-pecuniary interest in Item 6.5 (Development Application Report - 159-171 Anzac Parade, Kensington) as he is related to the

applicant. Cr Procopiadis indicated that he would not participate in the vote on Item 6.5.

- Cr Andrews declared a non-pecuniary interest in Item 6.1 (Development Application Report - 15R Snape Street, Kingsford – Snape Park) as his parents live in Snape Street. Cr Andrews indicated that he would participate in the vote on Item 6.1.

4. ADDRESSING OF COUNCIL BY MEMBERS OF THE PUBLIC.

Prior to consideration of the Agenda by the Committee, the following deputations were received in respect of the following matters:

6.1 DIRECTOR, CITY PLANNING REPORT 113/2007 – 15R SNAPE STREET, KINGSFORD. (SNAPE PARK) (DEFERRED)

Objector Mr David Park

6.2 DIRECTOR, CITY PLANNING REPORT 114/2007 – 28 WALSH AVENUE, MAROUBRA. (NAGLE PARK). (DEFERRED)

Objector Ms Trudy Wiedeman

6.3 DEVELOPMENT APPLICATION REPORT – 29 ALFREDA STREET, COOGEE

Applicant Mr B McHatton

6.4 DEVELOPMENT APPLICATION REPORT – 78 MOVERLY ROAD, MAROUBRA.

Objector Mr Peter Blake
Applicant Mr Alex Moldovan

6.6 DEVELOPMENT APPLICATION REPORT – 16A UNDINE STREET, MAROUBRA.

Objector Mr George Castanos
Applicant Mr James Morris

6.7 DEVELOPMENT APPLICATION REPORT – 385 BUNNERONG ROAD, MAROUBRA.

Applicant Mr Pierre Perez

6.8 DEVELOPMENT APPLICATION REPORT – 37 MELROSE PARADE, CLOVELLY.

Applicant Mr Sean O'Connell

6.9 DEVELOPMENT APPLICATION REPORT – 6 ARGYLE CRESCENT, KINGSFORD.

Applicant Mr Ian McKinnon

6.10 DEVELOPMENT APPLICATION REPORT – 33-149 BUNDOCK STREET & 373A AVOCA STREET, KINGSFORD.

Applicant Mr Ian McKinnon

7.3 DIRECTOR, CITY PLANNING REPORT 117/2007 - MAROUBRA BEACH URBAN DESIGN REVIEW STUDY.

For Mr John Venetoulis

The meeting was adjourned at 7.37pm and was resumed at 7.55pm.

5. **URGENT BUSINESS.**

Nil.

6. **DEVELOPMENT APPLICATIONS.**

6.1 **DIRECTOR, CITY PLANNING REPORT 113/2007 – 15R SNAPE STREET, KINGSFORD. (SNAPE PARK) (DA/367/2007 & PROP028573)**

H97 **RESOLUTION: (Bastic/Belleli) that:**

- A. *Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 367/2007 for development comprising minor excavation to create a suitable base for four (4) light poles, installation of four (4) 18 metre high light poles; minor excavation and trench digging as required to supply electrical infrastructure to the light towers; to facilitate the use of the sports field primarily for football activities as well as other recreational activities until 9.00pm, on four (4) evenings per week during winter, subject to the following conditions:*

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:-

1. *The development must be implemented substantially in accordance with the plans numbered 5376 A-004, revision C and stamped as received by Council on 16 May 2007, the application form and supporting information received with the application including the "Lighting Technical Report" by Light Studio 21 Pty Ltd and associated photomontage. Except, as may be amended by the following conditions and as may be shown in red on the attached plans.*
2. *A certificate from a suitably qualified person in outdoor lighting systems shall be submitted to the Director City Planning which certifies that the proposed lighting complies with Australian Standards AS/NZS 4282-2997 Control of Obtrusive Lighting prior to the commencement of the use of the sports fields for football activities.*
3. *The light towers must only be operated for three (3) nights of the week during winter up until 8:30pm.*

The following conditions are applied to provide adequate consideration for service authority assets:

4. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

5. *The use and operation of the premises shall not give rise to an environmental health or public nuisance and there are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.*
6. *The installation and operation of the light poles is to be in accordance with the requirements of AS/NZS 2560.2.3: Sports lighting-lighting for football (all codes)*

and AS/NZS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.

7. The recommendations contained in the report titled *Lighting Technical Report* undertaken by Light Studio 21 Pty Ltd form part of this consent.

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

8. The use and operation of the light poles and sports ground shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

9. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

10. All new work must be carried out in accordance with the provisions of the **Building Code of Australia (BCA)**, in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.
11. **Prior to the commencement of any works**, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.
12. **Prior to the commencement of any works**, the person having the benefit of the development consent must:
 - i) appoint a Principal Certifying Authority for the work, and
 - ii) appoint a principal contractor for the work and notify the Principal Certifying Authority and Council accordingly in writing, and
 - iii) notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and
 - iv) give at least two days notice to the Council, in writing, of the person's intention to commence works.
13. The works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as

applicable).

Documentary evidence of the inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

14. *A sign must be erected and maintained in a prominent position on the site, which contains the following details:*
 - *name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)*
 - *name, address and telephone number of the Principal Certifying Authority,*
 - *a statement stating that "unauthorised entry to the work site is prohibited".*
15. *An **Occupation Certificate** must be obtained from the Principal Certifying Authority encompassed in this development consent, in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.*

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

16. ***Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.*

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

17. *The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.*

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

18. *A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all contractors for assessment.*

19. *All excavations and backfilling associated with the erection of the light towers must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.*
20. *Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and (except as detailed below) between 8.00am to 5.00pm on Saturdays.*

All site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

21. *Noise and vibration emissions during the construction of the light towers and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.*
22. *Public safety and convenience must be maintained at all times during demolition, excavation and construction works.*

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

23. *Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*

Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

24. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*

A temporary safety fence is to be provided to protect the public, located to the perimeter of the work site. Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary fences or hoardings are to be structurally adequate, safe and be

constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place **prior to the commencement of any site works** and be maintained throughout construction.

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

25. A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road or nature strip or in any public place: -

- Install or erect any site fencing, hoardings or site structures
- Operate a crane or hoist goods or materials over a footpath or road
- Placement of a waste skip (greater than 3m in length) or any container or other article.

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

26. A Certificate prepared by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) **prior to the issuing of occupation certificate**, which certifies the structural adequacy of the light towers and that the works complies with the relevant structural design requirements of the Building Code of Australia.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

27. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.

28. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

29. Any damage sustained to either Council's nature strip or reserve as a result of the proposed works shall be repaired by excavating to a depth of 150mm, backfilling with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense prior to the issue of a final Occupation Certificate.

Tree Protection Measures

30. In order to ensure the retention of existing mature trees at the site and in

proximity to the location of the proposal light poles, the following measures are to be undertaken:

- a. All documentation submitted for the construction certificate application will be required to detail, to the satisfaction of the certifying authority, the location from which power will be sourced.
- b. There is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble within the driplines of any existing trees, with all documentation submitted for the construction certificate to demonstrate compliance with this requirement.

Advisory Conditions

- A1. The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.
- B. The Director City Services and the Local Traffic Committee review the parking situation in the area of the park and options for alleviating traffic problems that may result from any intensification of use of the park as a consequence of the installation of the lights.

MOTION: (Seng/Matson) - That the application be deferred until after the conclusion of the public exhibition period for the Recreation Needs Assessment. **LOST.**

MOTION: (Bastic/Belleli) CARRIED – SEE RESOLUTION.

Crs Matson and Hughes requested a DIVISION.

The DIVISION was taken and the names of the Councillors voting for and against the motion were as follows:

For	Against
Cr Andrews	Cr Hughes
Cr Bastic	Cr Matson
Cr Belleli	Cr Notley-Smith (Mayor)
Cr Nash	Cr Seng
Cr Procopiadis	Cr Woodsmith
Cr Sullivan	-
Cr Tracey	-
Cr White	-

6.2 DIRECTOR, CITY PLANNING REPORT 114/2007 - 28 WALSH AVENUE, MAROUBRA. (NAGLE PARK) (DA/370/2007 & PROP005479)

H98 **RESOLUTION: (Bastic/White) that:**

Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 370/2007 for development comprising minor excavation to create a suitable base for eight (8) light poles, installation of eight (8) 18 metre high light poles; minor trench digging as required to supply electrical infrastructure to the light towers; to facilitate the use of the sports field for organised sports training sessions until 9.00pm, on four (4) evenings per week during the winter football season at Nagle Park, Randwick, subject to the following conditions:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain

reasonable levels of environmental amenity:

1. *The development must be implemented substantially in accordance with the plans numbered 5379 A-003, revision D and stamped as received by Council on 16 May 2007, the application form and supporting information received with the application including the "Lighting Technical Report" by Light Studio 21 Pty Ltd and associated photomontage. Except, as may be amended by the following conditions and as may be shown in red on the attached plans.*
2. *A certificate from a suitably qualified person in outdoor lighting systems shall be submitted to the Director City Planning which certifies that the proposed lighting complies with Australian Standards AS/NZS 4282-2997 Control of Obtrusive Lighting prior to the commencement of the use of the sports fields for football activities.*
3. *The light towers must only be operated for three (3) nights of the week during winter up until 8:30pm.*

The following conditions are applied to provide adequate consideration for service authority assets:

4. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

The following conditions are applied to satisfy the relevant pollution control criteria and to maintain reasonable levels of health, safety and amenity to the locality:

5. *The use and operation of the premises shall not give rise to an environmental health or public nuisance and there are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations.*
6. *The installation and operation of the light poles is to be in accordance with the requirements of AS/NZS 2560.2.3: Sports lighting-lighting for football (all codes) and AS/NZS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.*
7. *The recommendations contained in the report titled Lighting Technical Report undertaken by Light Studio 21 Pty Ltd form part of this consent.*

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

8. *The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.*

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

9. *All new work must be carried out in accordance with the provisions of the **Building Code of Australia (BCA)**, in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.*
10. ***Prior to the commencement of any works***, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and

11. **Prior to the commencement of any works**, the person having the benefit of the development consent must:
- i) *appoint a Principal Certifying Authority for the work, and*
 - ii) *appoint a principal contractor for the work and notify the Principal Certifying Authority and Council accordingly in writing, and*
 - iii) *notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and*
 - iv) *give at least two days notice to the Council, in writing, of the person's intention to commence works.*
12. *The works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.*

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

13. *A sign must be erected and maintained in a prominent position on the site, which contains the following details:*
- *name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)*
 - *name, address and telephone number of the Principal Certifying Authority,*
 - *a statement stating that "unauthorised entry to the work site is prohibited".*
14. **An Occupation Certificate** *must be obtained from the Principal Certifying Authority encompassed in this development consent, in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.*

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

15. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon must also be provided to Council with the occupation certificate.

16. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

17. A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all contractors for assessment.
18. All excavations and backfilling associated with the erection of the light towers must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.
19. Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and (except as detailed below) between 8.00am to 5.00pm on Saturdays.

All site works are strictly prohibited on Sundays, Public Holidays and also on Saturdays adjacent to a Public Holiday.

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

20. Noise and vibration emissions during the construction of the light towers and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.
21. Public safety and convenience must be maintained at all times during demolition, excavation and construction works.

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

22. *Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*

Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

23. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*

A temporary safety fence is to be provided to protect the public, located to the perimeter of the work site. Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary fences or hoardings are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

*The public safety provisions and temporary fences must be in place **prior to the commencement of any site works** and be maintained throughout construction.*

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

24. *A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road or nature strip or in any public place: -*

- *Install or erect any site fencing, hoardings or site structures*
- *Operate a crane or hoist goods or materials over a footpath or road*
- *Placement of a waste skip (greater than 3m in length) or any container or other article.*

The following group of conditions have been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

25. *A Certificate prepared by a professional engineer shall be submitted to the certifying authority (and the Council, if the Council is not the certifying authority) **prior to the issuing of occupation certificate**, which certifies the structural adequacy of the light towers and that the works complies with the relevant structural design requirements of the Building Code of Australia.*

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

26. *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
27. *The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.*

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

28. *The use and operation of the light poles and sports ground shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.*
29. *Subject to firstly receiving in principle approval by Sydney Water, the applicant must meet the full cost for the design and construction of suitable pedestrian bridges over the Sydney Water controlled stormwater culvert/channel that is located in Walsh Avenue, adjacent to the common boundary of Walsh Avenue and Nagle Park. The pedestrian bridges must be suitably designed such that it is above the calculated 1 in 100 year ARI flood level for the stormwater culvert/channel and structurally capable of withstand hydrostatic pressure from floodwater during the probable maximum flood (PMF) event as defined in the Floodplain Development Manual (New South Wales Government, April 2005). The location of the pedestrian bridges shall be to Council's and Sydney Water's satisfaction. The pedestrian bridges must meet all current accessibility standards.*

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

30. *Any damage sustained to either Council's nature strip or reserve as a result of the proposed works shall be repaired by excavating to a depth of 150mm, backfilling with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense prior to the issue of a final Occupation Certificate.*

Tree Protection Measures

31. *In order to ensure the retention of existing mature trees at the site and in proximity to the location of the proposal light poles, the following measures are to be undertaken:*
 - a. *All documentation submitted for the construction certificate application will be required to detail, to the satisfaction of the certifying authority, the location from which power will be sourced.*
 - b. *There is to be no storage of materials or machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble within the driplines of any existing trees, with all documentation submitted for the construction certificate to demonstrate compliance with this requirement.*

Advisory Conditions

The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

MOTION: (Seng/Woodsmith) - That the application be deferred until after the conclusion of the public exhibition period for the Recreation Needs Assessment. **LOST.**

MOTION: (Bastic/White) CARRIED – SEE RESOLUTION.

Crs Matson and Hughes requested a DIVISION.

The DIVISION was taken and the names of the Councillors voting for and against the motion were as follows:

For	Against
Cr Andrews	Cr Hughes
Cr Bastic	Cr Matson
Cr Belleli	Cr Notley-Smith (Mayor)
Cr Nash	Cr Seng
Cr Procopiadis	Cr Woodsmith
Cr Sullivan	-
Cr Tracey	-
Cr White	-

6.3 DEVELOPMENT APPLICATION REPORT - 29 ALFREDA STREET COOGEE. (DA/827/2004/C & PROP002425)

H99 **RESOLUTION: (Andrews/White) that:**

A. Council, as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No DA/827/06 for permission to change the use of the existing premises into a restaurant at 29 Alfreda Street, Coogee in the following manner:

a) Amend Condition No. 1 to read:

The development must be implemented substantially in accordance with the plans numbered 01 & 02, dated October 2004 and received by Council on the 7 October 2004 and Amendment B dated October 2004 received by Council on the 12 May 2005 the application form and on any supporting information received with the application, as amended by the **Section 96 application received on the 22nd June 2007, only in so far as they relate to the modifications detailed in the Section 96 application.**

b) Amend condition 33 to read:

33. The hours of operation of the restaurant are restricted to:

Monday to Saturday 7.00am to 12.00 midnight
Sunday 7.00am to 10.00pm

c) Add the following conditions:

54. The use of the front dining terrace shall cease at **12 midnight Monday to Saturday and 10:00pm Sunday**; and shall only be operated **for a 12 month trial period ending on 4 December 2008. An application must be made to**

Council to modify this consent prior to the expiry of the trial period, should the operator of the premises wish to continue the use of the terrace area beyond 10.00pm daily.

55. *The bi-fold doors situated at the front dining terrace are to be closed at 12 midnight Monday to Saturday and 10pm Sunday **for the duration of the 12 month trial period.** If consent is not granted to use the terrace area beyond 10:00pm after the expiry of the trial period, the bi-folds doors shall be closed at 10:00pm Monday to Sunday*
56. *The sale, supply and consumption of alcohol at the restaurant are not permitted otherwise than ancillary to a meal consumed at a table in the restaurant.*
- 57 *The L10 noise level emitted from the licensed premises shall not exceed the background noise levels (L90) in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.*

Advising

- A1. *You are advised that Council encourages operators of all licensed premises within the City of Randwick to become active members of the Eastern Beaches Local Area Command Liquor Accord. Accord membership not only demonstrates a commitment to the responsible service of alcohol principles of NSW liquor laws, but also provide the invaluable forum whereby Police, Council and licensed venue operators develop and implement harm minimisation strategies. For further details in respect to Accord Membership please contact Mr Peter Reid – President on 9349 2299.*
- B. *At the conclusion of the trial period referred to in conditions 54 & 55, the General Manager be delegated authority to review the situation and determine whether use of the terrace for dining up to 12 midnight is to continue.*

AMENDMENT: (Notley-Smith/Tracey) – that:

- A. Council, as the consent authority, grant its consent under Section 96 of the Environmental Planning and Assessment Act 1979 as amended to modify Development Consent No DA/827/06 for permission to change the use of the existing premises into a restaurant at 29 Alfreda Street, Coogee in the following manner:

a) Amend Condition No. 1 to read:

The development must be implemented substantially in accordance with the plans numbered 01 & 02, dated October 2004 and received by Council on the 7 October 2004 and Amendment B dated October 2004 received by Council on the 12 May 2005 the application form and on any supporting information received with the application, as amended by the **Section 96 application received on the 22nd June 2007, only in so far as they relate to the modifications detailed in the Section 96 application.**

b) Amend condition 33 to read:

33. The hours of operation of the restaurant are restricted to:

Monday to Saturday 7.00am to 12.00 midnight
Sunday 7.00am to 10.00pm

c) Add the following conditions:

54. The use of the front dining terrace shall cease at 12 midnight for a 12 month trial period.
55. The bi fold doors situated at the front dining terrace are to be closed at 12 midnight for a 12 month trial period.
56. The sale, supply and consumption of alcohol at the restaurant is not permitted otherwise than ancillary to a meal consumed at a table in the restaurant.
57. The L10 noise level emitted from the licensed premises shall not exceed the background noise levels (L90) in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
58. An independent acoustic consultant is to be engaged by the applicant to monitor the noise levels associated with the use of the terrace for dining and a report is to be provided to Council at the 6 month interval and at the end of the trial period referred to in conditions 54 & 55.

Advising

- A1. You are advised that Council encourages operators of all licensed premises within the City of Randwick to become active members of the Eastern Beaches Local Area Command Liquor Accord. Accord membership not only demonstrates a commitment to the responsible service of alcohol principles of NSW liquor laws, but also provide the invaluable forum whereby Police, Council and licensed venue operators develop and implement harm minimisation strategies. For further details in respect to Accord Membership please contact Mr Peter Reid – President on 9349 2299.
- B. At the conclusion of the trial period referred to in conditions 54 & 55, the matter is to be reported back to Council to review the situation and determine whether use of the terrace for dining up to 12 midnight is to continue. **LOST.**

MOTION: (Andrews/White) CARRIED – SEE RESOLUTION.

Crs Woodsmith and Matson requested a DIVISION.

The DIVISION was taken and the names of the Councillors voting for and against the motion were as follows:

For	Against
Cr Andrews	Cr Hughes
Cr Bastic	Cr Matson
Cr Belleli	Cr Woodsmith
Cr Nash	-
Cr Notley-Smith (Mayor)	-
Cr Procopiadis	-
Cr Seng	-
Cr Sullivan	-
Cr Tracey	-
Cr White	-

6.4 DEVELOPMENT APPLICATION REPORT - 78 MOVERLY ROAD, MAROUBRA. (DA/841/2007 & PROP027329)

Having declared an interest in this item earlier in the meeting, Cr Belleli left the meeting during the debate and the vote on the matter.

H100 **RESOLUTION: (Andrews/Procopiadis)** that Council as the responsible authority grant its development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No 841/2007 for alterations and additions to the existing dwelling involving a first floor addition with four bedrooms, study room, front balcony, rear terrace and amenities, internal ground floor reconfiguration, ground floor extension to the rear and double garage at 78 Moverly Road, Maroubra subject to the conditions below and any other conditions provided by relevant Council departments.

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:-

1. *The development must be implemented substantially in accordance with the plans Prepared by Alex Moldovan Associates Pty Ltd, numbered 07144/1 to 07144/3 dated September 2007, received by Council on 9 October, 2007 any supporting information received with the application.*
2. *The rear first floor terrace shall have a maximum depth of 2.5m from the external wall of proposed bedroom 1 and include a balustrade complying with relevant Australian Standards. The remaining roof area shall be made non-trafficable with the inclusion of a landscaped planter box to a minimum internal depth of 600mm, a minimum internal width of 1.5m, and covering as much of the remaining roof area of the family room as is practical. Details of compliance are to be provided in the construction certificate plans*
3. *The external stair case to the proposed terrace shall be deleted and details of compliance are to be provided in the construction certificate plans*
4. *Any portion of the existing front fence forward of the front building line shall be modified by removing the solid fencing so that the area of the upper two thirds of the fence are 50% transparent. This includes the return wall to the front door but does not require modification of the adjoining boundary fence. Details of compliance are to be provided in the construction certificate plans*
5. *The planter box on the front first floor balcony shall be deleted. Details of compliance are to be provided in the construction certificate plans*
6. *Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the relevant building works.*

The following condition is imposed to satisfy relevant requirements of the Sydney Water Corporation.

7. *All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.*

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and

Renovating or telephone 13 20 92.

The principal certifying authority is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing works.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

8. *In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.*

9. *In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.*

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

10. *The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:*

- *Stormwater management (i.e. rainwater tanks)*
- *Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)*
- *Landscaping provisions*
- *Thermal comfort (i.e. construction materials, glazing and insulation)*
- *Energy efficiency (i.e. cooling & heating provisions and hot water systems)*

11. *In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments has been fulfilled.*

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing the final Occupation Certificate.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

12. *The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.*

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

13. *All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.*
14. *Prior **to the commencement of any building works**, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.*

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

15. ***Prior to the commencement of any building works**, the person having the benefit of the development consent must:*
 - i) *appoint a Principal Certifying Authority for the building work; and*
 - ii) *appoint a principal contractor for the building work, or in relation to residential building work, obtain an owner-builder permit in accordance with the requirements of the Home Building Act 1989, and notify the Principal Certifying Authority and Council accordingly in writing; and*
 - iii) *unless the person having the benefit of the consent is the principal contractor (i.e. owner-builder), notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority; and*
 - iv) *give at least two days notice to the Council, in writing, of the person's intention to commence building works.*

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

16. *The building works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.*

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority,

to carry out the required inspection, before carrying out any further works.

17. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:
- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable);
 - name, address and telephone number of the Principal Certifying Authority; and
 - a statement stating that "unauthorised entry to the work site is prohibited".

18. An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

19. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

20. In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA): -

- has been informed in writing of the licensee's name and contractor number; and
- is satisfied that the licensee has complied with the insurance requirements of Part 6 of the Home Building Act 1989, or

Where the work to be done by any other person (i.e. an owner-builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- has been informed of the person's name and owner-builder permit number; or
- has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.

Details of the principal building contractor and compliance with the provisions of the Home Building Act 1989 (i.e. Details of the principal licensed building contractor and a copy of the Certificate of Insurance) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.

21. *The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.*

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

22. *Smoke alarms are required to be installed in each Class 1 building or residential dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.*

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in 'dead-air-spaces', in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

*Details of compliance with the provisions of the Building Code of Australia must be included in the plans/specification for the **construction certificate**.*

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

23. *The demolition of buildings and the removal, storage, handling and disposal of building materials (including asbestos) must be carried out in accordance with the relevant requirements of WorkCover NSW, the NSW Department of Environment & Conservation (formerly the Environment Protection Authority) and Randwick City Council policies and conditions, including:*

- *Occupational Health and Safety Act 2000*
- *Occupational Health and Safety (Hazardous Substances) Regulation 2001*
- *Occupational Health and Safety (Asbestos Removal Work) Regulation 2001*
- *WorkCover NSW Code of Practice for the Safe Removal of Asbestos*
- *Australian Standard 2601 (2001) – Demolition of Structures*
- *The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.*
- *Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.*
- *Randwick City Council Asbestos Policy (adopted 13 September 2005)*

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

24. *All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent*

them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

25. *Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.*

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

26. *Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.*

27. *Public safety and convenience must be maintained at all times during demolition, excavation and construction works.*

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

Any part of Council's nature strip which is damaged as a result of the work must be back-filled, top-soiled and re-turfed with kikuyu turf prior to occupation or finalisation of the development, to Council's satisfaction.

28. *Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*

Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

29. *During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing*

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

30. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

*The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.*

If it is proposed to locate any site fencing, hoardings or amenities upon a footpath or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

31. *A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -*

- *Install or erect any site fencing, hoardings or site structures*
- *Operate a crane or hoist goods or materials over a footpath or road*
- *Placement of a waste skip (greater than 3m in length) or any container or other article.*

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

32. *Prior to the issuing of a final occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to:*

- a. *Reconstruct the concrete vehicular crossing and layback at kerb to suit the new*

vehicular entrance to the site.

33. *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
34. *The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.*

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

35. *The Council's Development Engineer has inspected the above site and has determined that the design alignment level (concrete/paved/tiled level) at the property boundary for driveways, access ramps and pathways or the like, must match the back of the existing footpath along the full site frontage.*
36. *The design alignment levels (concrete/paved/tiled level) issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.*
37. *The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$121.00 (inclusive of GST). This amount is to be paid prior to a construction certificate being issued for the development.*

The following conditions are applied to provide adequate consideration for service authority assets:

38. *A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.*
39. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

40. *Detailed drainage plans shall be submitted to and approved by the certifying authority prior to the issue of a construction certificate. The drainage plans shall demonstrate compliance with the conditions of this development approval.*
41. *Stormwater runoff from the site shall be discharged either:*
 - a. *To the kerb and gutter along the site frontage by gravity (without the use of a charged system); OR*

- b. *Through a private drainage easement(s) to Council's kerb and gutter (or underground drainage system); OR*
- c. *To a suitably sized infiltration area. As a guide the infiltration area shall be sized based on a minimum requirement of 1 m² of infiltration area (together with 1 m³ of storage volume) for every 20 m² of roof/impervious area on the site. Infiltration systems shall be located a minimum 2.1 metres from any side or rear boundary and 3 metres from adjoining structures.*

Prior to the use of infiltration in rear draining lots (where there is no formal overland escape route to Council's kerb and gutter/street drainage system), a geotechnical investigation will be required to determine whether the ground is suitable for infiltration. Should rock and/or a water table be encountered within two metres of the proposed base of the infiltration pit, or the ground conditions comprise low permeability soils such as clay, infiltration may not be appropriate.

NOTE: Should the applicant be unable to obtain a private drainage easement over properties to the rear of the development site (to facilitate stormwater discharge in accordance with option b)); and ground conditions preclude the use of infiltration (Option c), consideration may be given to the use of a charged system or a pump out system to drain that portion of the site that cannot be drained by gravity to the kerb and gutter at the front of the property.

- 42. *Should a charged system be required to drain any portion of the site, the charged system must be designed with suitable clear-outs/inspection points at pipe bends and junctions.*
- 43. *Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the required discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.*

The pump system must also be designed and installed strictly in accordance with Randwick City Council's Stormwater Code.

- 44. *All pumps out water must pass through a stilling pit prior to being discharged by gravity to the kerb and gutter.*

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

- 45. *part of the naturestrip upon Council's footway which is damaged during the construction of the proposed works shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu turf or similar. Such works shall be completed at the applicant's expense prior to the issue of a final Occupation Certificate.*

Advisory

- A1 *Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.*

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 *The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA) and the construction certificate must not be inconsistent with the development consent.*

In this regard, the development consent plans do not detail compliance with the deemed-to-satisfy provisions of the BCA.

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are therefore advised to ensure that the development is not inconsistent with Council's consent and to consult with Council's Building Certification Services or an accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

- A3 *The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.*

MOTION: (Andrews/Procopiadis) CARRIED – SEE RESOLUTION.

6.5 DEVELOPMENT APPLICATION REPORT - 159 - 171 ANZAC PARADE, KENSINGTON. (DA/471/2007 & PROP051719)

Having declared a non-pecuniary interest in this item earlier in the meeting, Cr Procopiadis left the meeting during the debate and the vote on the matter.

- H101 **RESOLUTION: (Notley-Smith/Andrews)** *that Council as the consent authority grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/471/2007 for permission to erect a shade structure over the existing footpath dining area for 159-171 Anzac Parade, Kensington subject to the following conditions:*

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

1. *The development must be implemented substantially in accordance with the plans numbered 07-104-02 to 07-104-06, Rev A, dated 31/5/2007 and received by Council on 12 June 2007, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:*
2. *The awnings annexed to the northern and eastern sides of the proposed umbrellas are not supported and shall be deleted from the plans prior to the issue of a construction certificate.*
3. *The PVC vertical wall panels are not supported and shall be deleted from the plans prior to the issue of a construction certificate.*
4. *The umbrellas shall have a minimum height clearance from the footpath of 2.2 metres when open. The plans submitted for the construction certificate shall be amended to demonstrate compliance with this requirement.*
5. *The umbrellas shall be designed and constructed as temporary structures and must be removed by the applicant if:*
 - *Any public utility authority requires the shade structures to be removed to*

- *facilitate access for maintenance/upgrade of services within the license area;*
 - *The duration of the license agreement expires and a new license is not entered into; or*
 - *The licensee fails to comply with the terms of the license agreement and/or Council determines that the umbrellas are posing as a safety hazard.*
6. *A 1.5 metre high glazed screen shall be provided within the inside edge of the low rise wall that delineates the outdoor seating area. Details of the proposed colours, materials and finishes of the screen shall be submitted to and approved by Council's Director City Planning prior to the issuing of the Construction Certificate.*
 7. *All works within the road reserve shall be undertaken by a Council approved contractor. The contractor engaged to undertake the works must hold full public liability in relation to any claims sustained as a result of the works.*
 8. *All material and equipment must be stored within the existing licensed area at all times during the construction works.*
 9. *The licensee (of the subject footpath dining area) shall clean, maintain, renew and repair the umbrellas/shade structures located within the road reserve, with all works being undertaken to the satisfaction of Council.*
 10. *The licensee shall hold full public liability in relation to any claims, demands, writs etc. sustained as a result of the umbrellas/shade structures.*
 11. *The licensee shall keep a policy of public risk insurance with respect to the umbrellas/shade structures. The limit of public risk shall be not less than \$20,000,000 or such other sum as the Council may reasonably nominate in writing from time to time as the amount, which may be paid arising out of any one single accident or event.*

NOTES:

- a. *The policy shall extend to cover death or injury to any person and damage to property of any person sustained by the shade structures or when such person is using or entering the licensed area.*
 - b. *The policy must name the Council as the owner and the licensee as the insured and must contain a clause that the insurer will not change the insurance without first giving the Council ten (10) days prior written notice.*
 - c. *The insurance must be with an insurer approved by the Council and a copy of the policy or a certificate of insurance shall be delivered by the licensee to the Council.*
12. *The licensee shall ensure that no structures are erected, nor goods stored, nor any work carried out in, on or over the public footway other than those approved by Council and the RTA.*
 13. *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
 14. *Prior to use of the umbrellas/shade structures the applicant/proposed Licensee shall amend the existing license agreement to include the approved shade structures. The applicant is advised to contact Council's Property Compliance Officer, (9399-0936), regarding Council's requirements for the formal license agreement.*

15. *The proposed umbrellas shall comply with the requirements of Council's Development Control Plan "Footpath Dining & Trading". No advertising or other structures shall be installed without the prior written consent of Council. The umbrellas and footings must be designed by a suitably qualified structural engineer to ensure that they will be able to safely withstand heavy wind conditions.*
16. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

17. *The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.*

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

18. *All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.*

19. ***Prior to the commencement of any building works***, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

20. ***Prior to the commencement of any building works***, the person having the benefit of the development consent must:

- i) *appoint a Principal Certifying Authority for the building work; and*
- ii) *appoint a principal contractor for the building work, or in relation to residential building work, obtain an owner-builder permit in accordance with the requirements of the Home Building Act 1989, and notify the Principal Certifying Authority and Council accordingly in writing; and*
- iii) *unless the person having the benefit of the consent is the principal contractor (i.e. owner-builder), notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority; and*
- iv) *give at least two days notice to the Council, in writing, of the person's intention to commence building works.*

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

21. *The building works must be inspected by the Principal Certifying Authority (or*

another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "**Notice of Critical Stage Inspections**", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

22. A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:

- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable);
- name, address and telephone number of the Principal Certifying Authority; and
- a statement stating that "unauthorised entry to the work site is prohibited".

23. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

24. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

25. *The removal, storage, handling and disposal of building materials must be carried out in accordance with the following regulations:*
- *The requirements and Guidelines of WorkCover NSW*
 - *Occupational Health and Safety Act 2000*
 - *Australian Standard 2601 (2001) – Demolition of Structures*
 - *The Protection of the Environment Operations Act 1997*
 - *Protection of the Environment Operations (Waste) Regulation 1996.*
26. *All excavations and backfilling associated with the works must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.*
27. *Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.*
28. *Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.*
29. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*
30. *A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority **prior to the commencement** of building works. The site management plan must include the following measures, as applicable to the type of development:*
- *location and construction of protective fencing / hoardings to the perimeter of the site;*
 - *location of site storage areas/sheds/equipment;*
 - *location of building materials for construction;*
 - *provisions for public safety;*
 - *dust control measures;*
 - *site access location and construction*
 - *details of methods of disposal of demolition materials;*
 - *protective measures for tree preservation;*
 - *provisions for temporary sanitary facilities;*
 - *location and size of waste containers/bulk bins;*
 - *details of proposed sediment and erosion control measures;*
 - *construction noise and vibration management;*
 - *construction traffic management provisions.*

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

31. *During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of*

Housing.

*Details of the proposed sediment control measures are to be detailed in the Construction Site Management Plan which must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works.***

32. *Public safety and convenience must be maintained at all times during demolition, excavation and construction works and the following requirements must be complied with:*
- a. *Building materials, sand, soil, waste materials, construction equipment or other activities must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*
 - b. *Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.*
 - c. *Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container in a public place can be made to Council's Health Building and Regulatory Services section.*
 - d. *Any part of Council's nature strip which is damaged as a result of the work must be back-filled, top-soiled and re-turfed with kikuyu turf prior to occupation or finalisation of the development, to Council's satisfaction.*

MOTION: (Notley-Smith/Andrews) CARRIED – SEE RESOLUTION.

**6.6 DEVELOPMENT APPLICATION REPORT - 16A UNDINE STREET MAROUBRA.
(DA/696/2007 & PROP003634)**

H102 **RESOLUTION: (Andrews/White)** *that Council, as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/696/2007 for permission to demolish the existing dwelling and erect a new dwelling at 16A Undine Street, Maroubra subject to the following conditions:*

1. *The development must be implemented substantially in accordance with the plans numbered DA-01, DA-02, DA-03, DA-04, DA-05, DA-06, DA-07, DA-08, DA-09, DA-10, DA-12 & DA-13, dated June 2007 and received by Council on the 21st August 2007, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:*

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

2. *The colours, materials and finishes of the external surfaces to the building are to be compatible with the adjacent development to maintain the integrity and amenity of the building and the streetscape.*

Details of the proposed colours, materials and textures (i.e. a schedule and brochure/s or sample board) are to be submitted to and approved by Council's Director of City Planning, in accordance with section 80A (2) of the

Environmental Planning and Assessment Act 1979 prior to a construction certificate being issued for the relevant building works.

- 3. Metal roof sheeting is to be painted or colour bonded to minimise reflection and to be sympathetic and compatible with the building and surrounding environment.*

Details of the proposed colour of the roof are to be submitted to and approved by the Director of City Planning, in accordance with the section 80A (2) of the Environmental Planning and Assessment Act 1979, prior to the roofing being installed.

- 4. There must be no encroachment of the new front fence onto Council's road reserve, footway, nature strip or public place.*
- 5. Any gate openings shall be constructed so that the gates, when hung, will be fitted in such a manner that they will not open over the footway or public place.*
- 6. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.*
- 7. No cooking facilities or sanitary fittings other than those indicated on the approved plans are to be installed in the premises without the prior written consent of the Council.*
- 8. All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.*

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing works.

- 9. The dwelling must be constructed at the same time as the adjoining new dwelling at 16 Undine Street to the satisfaction of Council.*
- 10. A Construction Certificate for DA consent 696/07 must not be issued by Council or an Accredited Certifier unless that Construction Certificate also incorporates DA consent 593/06.*

Reason:

Council is of the opinion that approval of both DA 696/07 and DA 593/06 is warranted only in circumstances where both semi detached dwellings, known as No.s 16 & 16A Undine Street, Lurline Bay are acted upon concurrently. The condition is imposed to prevent the owner of either property engaging a private certifier to issue an individual construction certificate for their property. Failure to comply with this condition would amount to an offence pursuant to the Environmental Planning and Assessment Act. In the absence of both consents being acted upon concurrently a streetscape issue may arise.

11. *An Occupation Certificate must not be issued for the first floor addition to the subject development prior to the adjoining dwelling at 16 Undine Street (approved under DA 593/2006) being constructed at least up to "lock up" stage (completion of all structural work, internal and external wall frame, roofing, guttering and drainage and external walls/cladding and finishes) to the satisfaction of Council.*
12. *To ensure the ongoing operation of the solar hot water heating system to the roof of the adjoining property at 18 Undine Street the owner of the subject land at 16A Undine Street must met the cost of any relocation of the system upon the roof of the dwelling at 18 Undine Street.*

In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.

13. *In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the **Construction Certificate** application for this development.*

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

14. *The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:*

- *Stormwater management (i.e. rainwater tanks)*
- *Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)*
- *Landscaping provisions*
- *Thermal comfort (i.e. construction materials, glazing and insulation)*
- *Energy efficiency (i.e. cooling & heating provisions and hot water systems)*

15. *In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.*

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing the final Occupation Certificate.

The following condition/s are applied to meet additional demands for public facilities;

16. *In accordance with Council's Section 94A Development Contributions Plan effective from 2 July 2007, the following monetary levy must be paid to*

Council.

Category	Cost	Applicable Levy	S94A Levy
<i>Development Cost More than \$200,000</i>	<i>\$ 350 000</i>	<i>1.0%</i>	<i>\$ 3 500.00</i>

The levy must be paid in cash, bank cheque or by credit card prior to a construction certificate being issued for the proposed development. The development is subject to an index to reflect quarterly variations in the Consumer Price Index (CPI) from the date of Council's determination to the date of payment.

Council's Section 94A Development Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick or at www.randwick.nsw.gov.au.

The following conditions are applied to maintain reasonable levels of public health, amenity and safety:

17. The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with Randwick City Council's Asbestos Policy and the relevant requirements of WorkCover NSW and the NSW Department of Environment & Conservation (formerly the Environment Protection Authority), including:

- Occupational Health and Safety Act 2000*
- Occupational Health and Safety (Hazardous Substances) Regulation 2001*
- Occupational Health and Safety (Asbestos Removal Work) Regulation 2001*
- WorkCover NSW Code of Practice for the Safe Removal of Asbestos*
- Australian Standard 2601 (2001) – Demolition of Structures*
- The Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Waste) Regulation 1996.*
- Relevant Department of Environment & Conservation (DEC) / Environment Protection Authority (EPA) and WorkCover NSW Guidelines.*

A copy of Council's Asbestos Policy is available on Council's web site at www.randwick.nsw.gov.au in the Building & Development section or a copy can be obtained from Council's Customer Service Centre.

18. A Demolition Work Plan must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor*
- Details of hazardous materials, including asbestos*
- Method/s of demolition and removal of asbestos*
- Measures and processes to be implemented to ensure the health & safety of workers and community*
- Measures to be implemented to minimise any airborne asbestos and dust*
- Methods and location of disposal of any asbestos or other hazardous materials*
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey*

- *Date the demolition and removal of asbestos will commence*

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days before commencing any demolition works involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

Note *it is the responsibility of the persons undertaking demolition work to obtain the relevant WorkCover licences and permits.*

19. *A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.*
20. *On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.*
21. *Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996.*

Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

22. *A Certificate or Statement, prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council upon completion of the works (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.*

The following conditions have been applied to ensure that noise emissions from the development satisfy legislative requirements and maintain reasonable levels of amenity to the area:

23. *The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.*

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background (LA90), 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A). The source noise level shall be assessed as an LAeq, 15 min and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

24. *The air conditioning plant and equipment shall not be operated during the*

following hours if the noise emitted can be heard within a habitable room in any other residential premises, or, as otherwise specified in relevant Noise Control Regulations:

- before 8.00am or after 10.00pm on any Saturday, Sunday or public holiday; or
- before 7.00am or after 10.00pm on any other day.

25. The installation of rainwater tanks and greywater treatment systems shall comply with the following noise control requirements: -

a) The operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the plant and equipment shall not give rise to an LAeq, 15 min sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise source/s under consideration by more than 5dB(A) in accordance with relevant NSW Department of Environment & Conservation Noise Control Guidelines.

b) Plant and equipment associated with rainwater tank(s) and greywater treatment systems are to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents.

c) The operation of plant and equipment associated with the rainwater tank(s) and greywater treatment systems are to be restricted to the following hours if the noise emitted can be heard within a habitable room in any other residential premises:

- before 8.00am or after 8.00pm on weekends or public holiday; or
- before 7.00am or after 8.00pm on weekdays.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

26. The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of 'on-the-spot' penalty infringements or service of a notice and order by Council.

27. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.

28. Prior to the commencement of any building works, a construction certificate must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.

A copy of the construction certificate, the approved plans and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment

29. *Prior to the commencement of any building works, the person having the benefit of the development consent must:*
- i) appoint a Principal Certifying Authority for the building work, and*
 - ii) appoint a principal contractor for the building work, or in relation to residential building work, obtain an owner-builder permit in accordance with the requirements of the Home Building Act 1989, and notify the Principal Certifying Authority and Council accordingly in writing, and*
 - iii) unless the person having the benefit of the consent is the principal contractor (i.e. owner-builder), notify the principal contractor of the required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and*
 - iv) give at least two days notice to the Council, in writing, of the person's intention to commence building works.*

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

30. *The building works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.*

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

31. *A sign must be erected and maintained in a prominent position on the site, which contains the following details:*
- name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)*

- name, address and telephone number of the Principal Certifying Authority,
- a statement stating that "unauthorised entry to the work site is prohibited".

32. An Occupation Certificate must be obtained from the Principal Certifying Authority prior to any occupation of the building work encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

33. Prior to the issuing of an interim or final occupation certificate, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

34. The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, prior to the issuing of a Construction Certificate, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

35. Smoke alarms are required to be installed in each Class 1 building or dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in 'dead-air-spaces', in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

*Details of compliance with the provisions of the Building Code of Australia must be included in the plans / specification for the **construction certificate**.*

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

36. All demolition work is to be carried out in accordance with the provisions of AS2601- The Demolition of Structures.
37. Any building/demolition works involving asbestos products are to be carried out in accordance with WorkCover New South Wales requirements, guidelines and codes of practice.
38. All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

39. The adjoining land and buildings located upon the adjoining land must be adequately supported at all times.

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of any building located on an adjoining allotment of land, the person causing the excavation must:

- *preserve and protect the building /s on the adjoining land from damage; and*
- *if necessary, underpin and support the building and excavation in an approved manner; and*
- *at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.*

Notes

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 proposed to be carried out upon any adjoining or supported land, the principal contractor or owner-builder must obtain:

- a) *the consent of the owners of such adjoining or supported land to trespass or encroach, or*
- b) *an access order under the Access to Neighbouring Land Act 2000, or*

- c) *an easement under section 88K of the Conveyancing Act 1919, or*
- d) *an easement under section 40 of the Land & Environment Court Act 1979, as appropriate.*

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).

- 40. *Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.*

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

- 41. *Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.*
- 42. *Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.*
- 43. *Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.*
- 44. *Building materials, sand, soil, waste materials, construction equipment or other materials or articles must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*
- 45. *Bulk bins, waste containers or other articles must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council. Applications to place a waste container or other articles in a public place can be made to Council's Building Services section.*

Certain waste containers (less than 3m in length) which are located in approved locations upon the road for a limited period may be exempt from approval, subject to compliance with the Roads & Traffic Authority Guidelines and Requirements, Council's Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy.

- 46. *A Construction Site Management Plan is to be developed and implemented prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to*

the type of development:

- *location and construction of protective fencing / hoardings to the perimeter of the site;*
- *location of site storage areas/sheds/equipment;*
- *location of building materials for construction;*
- *provisions for public safety;*
- *dust control measures;*
- *site access location and construction*
- *details of methods of disposal of demolition materials;*
- *protective measures for tree preservation;*
- *provisions for temporary sanitary facilities;*
- *location and size of waste containers/bulk bins;*
- *details of proposed sediment and erosion control measures;*
- *construction noise and vibration management;*
- *construction traffic management details.*

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain reasonable levels of public health, safety and amenity to the satisfaction of Council. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

47. *During demolition excavation and construction works, dust emissions must be minimised, so as not to result in a nuisance to nearby residents or result in a potential pollution incident.*

Adequate dust control measures must be provided to the site prior to the works commencing and the measures and practices must be maintained throughout the demolition, excavation and construction process, to the satisfaction of Council.

Dust control measures and practices may include: -

- *Provision of geotextile fabric to all perimeter site fencing (attached on the prevailing wind side of the site fencing).*
- *Covering of stockpiles of sand, soil and excavated material with adequately secured tarpaulins or plastic sheeting.*
- *Installation of a water sprinkling system or provision hoses or the like.*
- *Regular watering-down of all loose materials and stockpiles of sand, soil and excavated material.*
- *Minimisation/relocation of stockpiles of materials, to minimise potential for disturbance by prevailing winds.*
- *Landscaping and revegetation of disturbed areas.*

48. *During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.*

49. *Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.*

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

50. *A warning sign for sediment control, soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.*
51. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

*The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.*

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or any public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

The following conditions are applied to provide adequate security against damage to Council's infrastructure:

52. *The following damage/civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:*

a) \$1000.00 - *Damage / Civil Works Security Deposit*

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- *A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge; and*
- *Completion of the civil works as conditioned in this development consent by Council.*

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

The applicant is to advise Council in writing and/or photographs of any signs of

existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

53. Prior to the issuing of an occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to:
 - a) Construct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site.
 - b) Remove the redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.
54. The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.
55. The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

56. The Council's Development Engineer has inspected the above site and has determined that the design alignment level at the property boundary for driveways, access ramps and pathways or the like, must be as follows:

Pedestrian Gate Entrance – RL 24.65 AHD.

Driveway Entrance – RL 24.53 AHD.

The above driveway level has been issued to assist in internal driveway gradients, proposed by the applicant, to the basement garage. Any enquiries regarding this matter can be directed to Mr P O'Sullivan on 9399 0923.

57. The design alignment levels (concrete/paved/tiled level) issued by Council must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.
58. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$268.00 calculated at \$44.00 (inclusive of GST) per metre of site frontage. This amount is to be paid prior to a construction certificate being issued for the development.

The following conditions are applied to provide adequate consideration for service authority assets:

59. *A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.*
60. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

61. *Generally all site stormwater shall be piped to a silt arrester pit that drains to Council's kerb and gutter.*

The location and details of the proposed internal stormwater pipelines and silt arrester pit shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the plans shall be forwarded to Council, prior to a construction certificate being issued, if Council is not the certifying authority.

Notes:

- a. The sediment/silt arrester pit shall be constructed:*
- i. within the site at or near the street boundary.*
 - ii. with a child proof and corrosion resistant fastening system (e.g. spring loaded jay-bolt).*
 - iii. with a minimum of 4 x 90 mm diameter weep holes (preferably located in the walls of the pit at the floor level) and with a suitable geotextile material **with a high filtration rating** located around the weep holes.*
 - iv. with the pit floor being a minimum 300mm below the invert level of the outlet pipelines.*
 - v. with a **galvanised** heavy duty screen (Lysaght RH3030 Maximesh or similar) located over the outlet pipes draining to the infiltration pit and the kerb. (Similar to a Mascot GRC stormwater discharge control pit, product code DS3SDC).*
- b. The overflow pipe/s from the rainwater tank/s shall be directed into the sediment/silt arrester pit.*
62. *Any stormwater runoff which cannot be directed to the kerb and gutter at the front of the property (via the sediment/silt arrester pit as detailed above) shall be discharged either:*
- a) Through private drainage easements to Council's kerb and gutter (or underground drainage system); OR*
 - b) To a separate suitably sized infiltration area. As a guide, infiltration areas which do not have an overflow to the street shall be sized based on a minimum requirement of 1 m² of infiltration area (together with 1 m³ of storage volume) for every 20 m² of roof/impervious area draining to the infiltration area.*

Prior to the use of infiltration in areas where there is no formal overland

escape route to Council's kerb and gutter/street drainage system, a geotechnical investigation will be required to determine whether the ground is suitable for infiltration. Should rock and/or a water table be encountered within two metres of the proposed base of the infiltration pit, or the ground conditions comprise low permeability soils such as clay, infiltration may not be appropriate.

63. As the above site may encounter groundwater/seepage water within the depth of the basement excavation, the basement car park or similar structures are to be suitably tanked and waterproofed. A Structural Engineer\Geotechnical Engineer shall certify the tanking & waterproofing has been carried out to an acceptable standard, to the satisfaction of the certifying authority. A copy of the certification is to be forwarded to Council.

Notes:

- a) Any subsoil drainage (from planter boxes etc) is to be disposed of within the site and is not to be discharged to Council's kerb & gutter and/or underground drainage system.
- b) Adequate provision is to be made for the ground water to drain around the basement car park (to ensure that the basement will not dam or slow the movement of the ground water through the development site).
64. Any seepage water must be drained directly into an absorption pit within the site. Seepage water must **not** be drained from the site.

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

65. In order to visually 'soften' the expanses of hard pavement, brick unit pavers or similar shall be used throughout the driveway and carpark areas on the site. Such details shall be shown on the detailed engineering documentation and shall include all structural design details including pavement/subgrade thickness.

Such details shall be in accordance with the relevant Australian Standard and shall be submitted to, and approved by, the Principal Certifying Authority, prior to the issue of the Construction Certificate.

ADVISORY MATTERS:

- A1 This consent does not authorise any trespass or encroachment upon any adjoining land or building whether private or public. Where any access, underpinning, shoring or any other works are proposed to be carried out upon any adjoining land the owner/builder must obtain:
- a) the consent of the owners of the adjoining land to access, carry out works or encroach upon their land, or otherwise affect an easement, right-of-way or other restriction on the certificate of title, or
- b) an access order under the Access to Neighbouring Land Act 2000, or
- c) an easement under section 88K of the Conveyancing Act 1919, or
- d) an easement under section 40 of the Land & Environment Court Act 1979 as appropriate.
- A2 The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA) and the construction certificate must not be inconsistent with the development consent.

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA.

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are advised to ensure that the development is not inconsistent with Council's consent and if necessary consult with Council's Building Certification Services or your accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

- A3 *The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.*

MOTION: (Matson/Hughes) – That the application be deferred to enable a further report to be provided in relation to the technical specifications for the proposed solar hot water system and the hours it needs to operate to work effectively and whether the relocated hot water system would still have enough solar access to function. **LOST.**

MOTION: (Andrews/White) CARRIED – SEE RESOLUTION.

6.7 DEVELOPMENT APPLICATION REPORT - 385 BUNNERONG ROAD, MAROUBRA. (DA/259/2007 & PROP045940)

- H103 **RESOLUTION: (Notley-Smith/Andrews)** that Council, as the consent authority, grant development consent under Section 80 and 80A of the Environmental Planning and Assessment Act 1979 (as amended) to Development Application No. DA/259/2007 for permission to erect an attached dual occupancy at 385 Bunnerong Road, Maroubra subject to the following conditions:

The following conditions are applied to satisfy the provisions of section 79C of the Environmental Planning and Assessment Act 1979 and to maintain reasonable levels of environmental amenity:

1. *The development must be implemented substantially in accordance with the plans numbered 42D/07, sheets 1-8 dated March 2007 & received by Council on the 10th April 2007, also an amended plan numbered 42D/07 sheet 9 dated 1 Aug 2007 & received by Council on the 18th Oct 2007, the application form and on any supporting information received with the application, except as may be amended by the following conditions and as may be shown in red on the attached plans:*
2. *The colours, materials and finishes of the external surfaces to the building are to be consistent with the details of materials and finishes detailed on sheet number 42D/17-1, dated March 2007, received by Council on the 10th April 2007.*
3. *There must be no encroachment of the structures onto any adjoining premises or onto Council's road reserve, footway or public place, unless permission has been obtained from the owners of the adjoining land accordingly.*
4. *Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.*
5. *Lighting to the premises shall be designed so as not to cause a nuisance to nearby residents.*

6. *No cooking facilities or sanitary fittings other than those indicated on the approved plans are to be installed in the premises without the prior written consent of the Council.*

The following condition/s are applied to satisfy the increased demand for public amenities and public services:

7. *In accordance with Council's Section 94 Contributions Plan effective from 2 September 1999, the following monetary contribution is to be paid to Council.*
 - a) *for the provision or improvement of open space* \$2,732.00
 - b) *for the provision or improvement of community facilities* \$1,208.00
 - c) *Administration fee* \$425.00

*The contribution must be paid in cash or by bank cheque **prior to a construction certificate being issued** for the proposed development, together with payment of the required **Section 94 Administration Fee of \$425.00**. Council's Section 94 Contribution Plans may be inspected at the Customer Service Centre, Administrative Centre, 30 Frances Street, Randwick.*

The following condition/s are imposed to satisfy the requirements of the Sydney Water Corporation.

8. *All building, plumbing and drainage work must be carried out in accordance with the requirements of the Sydney Water Corporation.*

The approved Construction Certificate plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to commencing any building or excavation works, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if any further requirements need to be met.

If suitable, the plans will be appropriately stamped. For Quick Check agent details please refer to Sydney Water's web site at www.sydneywater.com.au and go to the Building, Developing and Plumbing, then Quick Check or Building and Renovating or telephone 13 20 92.

The principal certifying authority is required to ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans before commencing works.

The following conditions are imposed to promote ecologically sustainable development and energy efficiency.

9. *In accordance with Section 80A (11) of the Environmental Planning and Assessment Act 1979 and Clause 97A of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition that all of the required commitments listed in the relevant BASIX Certificate for this development are fulfilled.*
10. *In accordance with the provisions of the Environmental Planning & Assessment Regulation 2000, a relevant BASIX Certificate and associated documentation must be submitted to the Certifying Authority with the Construction Certificate application for this development.*

The required commitments listed and identified in the BASIX Certificate are to be included on the plans, specifications and associated documentation for the proposed development, to the satisfaction of the Certifying Authority.

The design of the building must not be inconsistent with the development consent and any proposed variations to the building to achieve the BASIX commitments may necessitate a new development consent or amendment to the existing consent to be obtained, prior to a construction certificate being issued.

11. *The following provisions are to be implemented in accordance with the relevant BASIX Certificate and details are to be included in the Construction Certificate documentation (as applicable), to the satisfaction of the Certifying Authority:*

- *Stormwater management (i.e. rainwater tanks)*
- *Water efficiency (i.e. triple A rated taps and showers, dual flush toilets and water re-use)*
- *Landscaping provisions*
- *Thermal comfort (i.e. construction materials, glazing and insulation)*
- *Energy efficiency (i.e. cooling & heating provisions and hot water systems)*

12. *In accordance with Clause 154B of the Environmental Planning & Assessment Regulation 2000, a Certifying Authority must not issue a final Occupation Certificate for this development, unless it is satisfied that each of the required BASIX commitments have been fulfilled.*

Relevant documentary evidence of compliance with the BASIX commitments is to be forwarded to the Council upon issuing the final Occupation Certificate.

The following conditions are applied to ensure that the development satisfies the provisions of the Environmental Planning and Assessment Act 1979 and Regulations:

13. *The requirements and provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000, must be fully complied with at all times.*

Failure to comply with these legislative requirements is an offence and may result in the commencement of legal proceedings, issuing of `on-the-spot` penalty infringements or service of a notice and order by Council.

14. *All new building work must be carried out in accordance with the provisions of the **Building Code of Australia** (BCA), in accordance with Clause 98 of the Environmental Planning and Assessment Regulation 2000.*

15. ***Prior to the commencement of any building works, a construction certificate*** *must be obtained from the Council or an accredited certifier, in accordance with the provisions of the Environmental Planning & Assessment Act 1979 and Environmental Planning & Assessment Regulation 2000.*

A copy of the construction certificate, the approved plans & specifications and development consent conditions must be kept on the site at all times and be made available to the Council officers and all building contractors for assessment.

16. ***Prior to the commencement of any building works,*** *the person having the benefit of the development consent must:*

- i) *appoint a Principal Certifying Authority for the building work, and*
- ii) *appoint a principal contractor for the building work, or in relation to residential building work, obtain an owner-builder permit in accordance with the requirements of the Home Building Act 1989, and notify the Principal Certifying Authority and Council accordingly in writing, and*
- iii) *unless the person having the benefit of the consent is the principal contractor (i.e. owner-builder), notify the principal contractor of the*

- required critical stage inspections and other inspections to be carried out, as specified by the Principal Certifying Authority, and*
- iv) *give at least two days notice to the Council, in writing, of the persons intention to commence building works.*

In relation to residential building work, the principal contractor must be the holder of a contractor licence, in accordance with the provisions of the Home Building Act 1989.

17. *The building works must be inspected by the Principal Certifying Authority (or another certifying authority if the Principal Certifying Authority agrees), in accordance with sections 109 E (3) of the Environmental Planning & Assessment Act 1979 and clause 162A of the Environmental Planning & Assessment Regulation 2000, to monitor compliance with the relevant standards of construction, Council's development consent and the construction certificate.*

The Principal Certifying Authority must specify the relevant stages of construction to be inspected in accordance with section 81A (2) (b1) (ii) of the Environmental Planning & Assessment Regulation 2000 and a satisfactory inspection must be carried out, to the satisfaction of the Principal Certifying Authority, prior to proceeding to the subsequent stages of construction or finalisation of the works (as applicable).

Documentary evidence of the building inspections carried out and details of compliance with Council's consent is to be maintained by the Principal Certifying Authority. Details of critical stage inspections carried out and copies of certification relied upon must also be forwarded to Council with the occupation certificate.

The principal contractor or owner-builder (as applicable) must ensure that the required critical stage and other inspections, as specified in the Principal Certifying Authority's "Notice of Critical Stage Inspections", are carried out to the satisfaction of the Principal Certifying Authority and at least 48 hours notice (excluding weekends and public holidays) is to be given to the Principal Certifying Authority, to carry out the required inspection, before carrying out any further works.

18. *A sign must be erected and maintained in a prominent position on the site for the duration of the works, which contains the following details:*
- *name, address, contractor licence number and telephone number of the principal contractor, including a telephone number at which the person may be contacted outside working hours, or owner-builder permit details (as applicable)*
 - *name, address and telephone number of the Principal Certifying Authority,*
 - *a statement stating that "unauthorised entry to the work site is prohibited".*

19. *An **Occupation Certificate** must be obtained from the Principal Certifying Authority **prior to any occupation of the building work** encompassed in this development consent (including alterations and additions to existing buildings), in accordance with the relevant provisions of the Environmental Planning & Assessment Act 1979.*

An Occupation Certificate must not be issued for the development if the development is inconsistent with the development consent. The relevant requirements of the Environmental Planning & Assessment Act 1979 and conditions of development consent must be satisfied prior to the issuing of an occupation certificate.

20. **Prior to the issuing of an interim or final occupation certificate**, a statement is required to be obtained from the Principal Certifying Authority, which confirms that the development is not inconsistent with the development consent and the relevant conditions of development consent have been satisfied.

Details of critical stage inspections carried out by the principal certifying authority together with any other certification relied upon and must also be provided to Council with the occupation certificate.

21. *In accordance with clause 98 of the Environmental Planning and Assessment Regulation 2000, it is a prescribed condition, that in the case of residential building work, a contract of insurance must be obtained and in force, in accordance with the provisions of the Home Building Act 1989.*

Where the work is to be done by a licensed contractor, excavation or building work must not be carried out unless the Principal Certifying Authority (PCA):

- *has been informed in writing of the licensee's name and contractor number; and*
- *is satisfied that the licensee has complied with the insurance requirements of Part 6 of the Home Building Act 1989, or*

Where the work to be done by any other person (i.e. an owner-builder), excavation or building work must not be carried out unless the Principal Certifying Authority:

- *has been informed of the person's name and owner-builder permit number, or*
- *has been given a declaration, signed by the owner of the land that states that the market cost of the labour and materials involved in the work does not exceed \$5,000.*

*Details of the principal building contractor and compliance with the provisions of the Home Building Act 1989 (i.e. Details of the principal licensed building contractor and a copy of the Certificate of Insurance) are to be submitted to Council **prior to the commencement of works**, with the notice of appointment of the PCA / notice of intention to commence building work.*

22. *The required Long Service Levy payment, under the Building and Construction Industry Long Service Payments Act 1986, is to be forwarded to the Long Service Levy Corporation or the Council, **prior to the issuing of a Construction Certificate**, in accordance with Section 109F of the Environmental Planning & Assessment Act 1979.*

At the time of this development consent, Long Service Levy payment is applicable on building work having a value of \$25,000 or more, at the rate of 0.35% of the cost of the works.

23. *Smoke alarms are required to be installed in each Class 1 building or residential dwelling in accordance with the relevant provisions of Part 3.7.2 of the B.C.A. – Housing Provisions.*

Smoke alarms must comply with AS3786 – Smoke alarms and be connected to the consumer mains electric power supply and provided with a battery back-up.

The smoke alarms are to be installed in suitable locations on or near the ceiling, in any storey containing bedrooms; located between each part of the dwelling containing the bedrooms and the remainder of the dwelling, or where bedrooms are served by a hallway, the smoke alarms are to be located in that hallway; and

smoke alarms are to be installed in any other storey not containing bedrooms, to the satisfaction of the certifying authority.

Smoke alarms are not to be located in 'dead-air-spaces', in the corner junction of walls and ceilings between exposed rafters/joists or at the apex of raked ceilings, as detailed in Part 3.7.2 of the Building Code of Australia – Housing Provisions.

Details of compliance with the provisions of the Building Code of Australia must be included in the plans / specification for the **construction certificate**.

The following conditions are applied to ensure that the development satisfies relevant standards of construction, and to maintain adequate levels of health, safety and amenity during construction:

24. A **Demolition Work Plan** must be prepared for the development in accordance with Australian Standard AS2601-2001, Demolition of Structures.

The Work Plan must include the following information (as applicable):

- The name, address, contact details and licence number of the Demolisher /Asbestos Removal Contractor
- Details of hazardous materials, including asbestos
- Method/s of demolition and removal of asbestos
- Measures and processes to be implemented to ensure the health & safety of workers and community
- Measures to be implemented to minimise any airborne asbestos and dust
- Methods and location of disposal of any asbestos or other hazardous materials
- Other relevant details, measures and requirements to be implemented as identified in the Asbestos Survey
- Date the demolition and removal of asbestos will commence

The Demolition Work Plan must be submitted to Council and the Principal Certifying Authority (PCA) if the Council is not the PCA, not less than two (2) working days **before commencing any demolition works** involving asbestos products or materials. A copy of the Demolition Work Plan must also be maintained on site and be made available to Council officers upon request.

25. An Asbestos Survey prepared by a suitably qualified person (i.e. an occupational hygienist, licensed asbestos removal contractor or building consultant), must be submitted prior to the commencement of works. The asbestos survey shall include details for managing the removal of asbestos from the site. The demolition, removal and disposal of any asbestos materials must be carried out in accordance with Councils Asbestos Policy and relevant Workcare requirements.
26. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 200 m² of bonded asbestos (or as otherwise specified by WorkCover or relevant legislation). Removal of friable asbestos material must only be undertaken by contractor that holds a current friable asbestos removal licence.
27. On demolition sites involving the removal of asbestos, a professionally manufactured sign must be clearly displayed in a prominent visible position at the front of the site, containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' and include details of the licensed contractor. The sign shall measure not less than 400mm x 300mm and the sign is to be installed prior to demolition work commencing and is to remain in place until such time as all asbestos has been safely removed from the site.

28. *Asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (Waste) Regulation 1996.*

Asbestos waste must be disposed of at an approved waste disposal depot (refer to the DEC or Waste Service NSW for details of sites). Copies of all receipts detailing method and location of disposal must be maintained on site and be provided to Council officers upon request, as evidence of correct disposal.

29. *A Certificate or Statement, prepared by a suitably qualified person (ie an occupational hygienist, licensed asbestos removal contractor, building consultant, architect or experienced licensed building contractor), must be provided to Council **upon completion of the works** (prior to an Occupation Certificate being issued), which confirms that the relevant requirements contained in the Asbestos Survey and conditions of consent, in relation to the safe removal and disposal of asbestos, have been satisfied.*

30. *All excavations and backfilling associated with the erection or demolition of a building must be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and supported to prevent them from being dangerous to life, property or buildings.*

Retaining walls, shoring or piling must be provided to support land which is excavated in association with the erection or demolition of a building, to prevent the movement of soil and to support the adjacent land and buildings, if the soil conditions require it. Adequate provisions are also to be made for drainage.

Retaining walls, shoring, or piling must be designed and installed in accordance with appropriate professional standards and the relevant requirements of the Building Code of Australia and Australian Standards. Details of proposed retaining walls, shoring or piling are to be submitted to and approved by the Principal Certifying Authority for the development prior to commencing such excavations or works.

31. *If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:*

- preserve and protect the building /s on the adjoining land from damage; and*
- if necessary, underpin and support the building and excavation in an approved manner; and*
- at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land (including a public road or public place), give notice of the intention to do so to the owner of the adjoining land. Particulars of the excavation are to be provided to the owner of the adjoining land and also the owner of the land where the building is being erected or demolished.*

32. *Except with the written approval of Council's Manager of Health, Building & Regulatory Services, all building, demolition and associated site works (including site deliveries) must only be carried out between the hours of 7.00am to 5.00pm on Monday to Friday inclusive and between 8.00am to 5.00pm on Saturdays and all building activities are strictly prohibited on Sundays and Public Holidays.*

In addition, the use of any rock excavation machinery or any mechanical pile drivers or the like, is restricted to the hours of 8.00am to 5.00pm (maximum) on Monday to Friday only, to minimise the noise levels during construction and loss of amenity to nearby residents.

33. *Noise and vibration emissions during the construction of the building and associated site works must not result in damage to nearby premises or result in an unreasonable loss of amenity to nearby residents and the relevant provisions of the Protection of the Environment Operations Act 1997 must be satisfied at all times.*

Noise and vibration from any rock excavation machinery and pile drivers (or the like) must be minimised by using appropriate plant and equipment and silencers and a construction noise and vibration minimisation strategy, prepared by a suitably qualified consultant is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

34. *A Registered Surveyor's check survey certificate or compliance certificate is to be forwarded to the principal certifying authority (and a copy is to be forwarded to the Council, if the Council is not the principal certifying authority), detailing compliance with Council's approval at the following stage/s of construction:*

- a) Prior to construction of the footings or first completed floor slab (prior to the pouring of concrete), showing the area of the land, building and boundary setbacks and levels of the building.*
- b) On completion of the erection of the building showing the area of the land, the position of the building and boundary setbacks and verifying the building has been constructed at the approved levels.*

35. *Temporary toilet facilities are to be provided, at or in the vicinity of the work site throughout the course of demolition and construction, to the satisfaction of WorkCover NSW and the toilet facilities must be connected to a public sewer or other sewage management facility approved by Council.*

36. *Public safety and convenience must be maintained at all times during demolition, excavation and construction works.*

The roadway, footpath and nature strip must be maintained in a good, safe condition and free from any obstructions, materials, soils or debris at all times. Any damage caused to the road, footway or nature strip must be repaired immediately, to the satisfaction of Council.

A Road Opening Permit must be obtained from the Council and other relevant Authorities prior to excavating or opening-up the road or footway for services or the like.

Any part of Council's nature strip which is damaged as a result of the work must be back-filled, top-soiled and re-turfed with kikuyu turf prior to occupation or finalisation of the development, to Council's satisfaction.

37. *Public safety must be maintained at all times and public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.*

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5 metres). Temporary fences are to have a minimum height of 1.8 metres and be constructed of cyclone wire fencing, with geotextile fabric attached to the inside of the fence to provide dust control, or other material approved by Council.

Temporary site fences are to be structurally adequate, safe and be constructed in a professional manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

*The public safety provisions and temporary fences must be in place **prior to the commencement of any demolition, excavation or building works** and be maintained throughout construction.*

If it is proposed to locate any site fencing, hoardings or amenities upon any part of the footpath, nature strip or public place, the written consent from Council's Building Services section must be obtained beforehand and detailed plans are to be submitted to Council for consideration, together with payment of the weekly charge in accordance with Council's adopted fees and charges.

38. *A Construction Site Management Plan is to be submitted to and approved by the principal certifying authority prior to the commencement of demolition, excavation or building works. The site management plan must include the following measures, as applicable to the type of development:*

- *location and construction of protective fencing / hoardings to the perimeter of the site;*
- *location of site storage areas/sheds/equipment;*
- *location of building materials for construction;*
- *provisions for public safety;*
- *dust control measures;*
- *site access location and construction*
- *details of methods of disposal of demolition materials;*
- *protective measures for tree preservation;*
- *provisions for temporary sanitary facilities;*
- *location and size of waste containers/bulk bins;*
- *details of proposed sediment and erosion control measures;*
- *construction noise and vibration management;*
- *construction traffic management provisions.*

The site management measures are to be implemented prior to the commencement of any site works and be maintained throughout the works, to maintain adequate levels of public health and safety. A copy of the approved Construction Site Management Plan must be maintained on site and be made available to Council officers upon request.

39. *During construction stages, sediment laden stormwater run-off shall be controlled using the sediment control measures outlined in the manual for Managing Urban Stormwater – Soils and Construction, published by the NSW Department of Housing.*

*Details of the proposed sediment control measures are to be detailed in a soil and water management plan and must be submitted to and approved by the principal certifying authority **prior to the commencement of any site works**. The sediment and erosion control measures must be implemented prior to the commencement of any site works and be maintained throughout construction. A copy of the approved details must be forwarded to the Council and a copy is to be maintained on-site and be made available to Council officers upon request.*

Details of proposed sediment and erosion control measures shall include; a site plan; indicating the slope of land, access points & access control measures, location and type of sediment & erosion controls, location of existing vegetation to be retained, location of material stockpiles and storage areas, location of building operations and equipment, methods of sediment control, details of drainage systems and details of existing and proposed vegetation.

40. *Bulk bins/waste containers must not be located upon the footpath, roadway or nature strip at any time without the prior written approval of the Council, unless the waste container is located upon the road in accordance with the Roads & Traffic Authority Guidelines and Requirements, and the container is exempt from*

an approval under Development Control Plan for Exempt & Complying Development and Council's Local Approvals Policy. Applications to place a waste container in a public place can be made to Council's Building Services section.

41. *Building materials, sand, soil, waste materials or construction equipment must not be placed upon the footpath, roadway or nature strip at any time and the footpath, nature strip and road must be maintained in a clean condition and free from any obstructions, soil and debris at all times.*

Stockpiles of soil, sand, aggregate or other materials must not be located on any footpath, roadway, nature strip, drainage line or any public place and the stockpiles must be protected with adequate sediment control measures.

Building operations such as brick cutting, washing tools or equipment and mixing mortar are not permitted on public footpaths, roadways, nature strips, in any public place or any location which may lead to the discharge of materials into the stormwater drainage system.

A warning sign for soil and water management must be displayed in a prominent position on the building site, visible to both the public and site workers. The sign must be displayed throughout the construction period. Copies of a suitable warning sign are available at Council's Customer Service Centre for a nominal fee.

42. *A local approval application must be submitted to and be approved by Council's Building Services section prior to commencing any of the following activities on a footpath, road, nature strip or in any public place: -*

- *Install or erect any site fencing, hoardings or site structures*
- *Operate a crane or hoist goods or materials over a footpath or road*
- *Placement of a waste skip (greater than 3m in length) or any other container or article.*

The following conditions are applied to provide adequate security against damage to Council's infrastructure:

43. *The following damage / civil works security deposit requirement is to be complied with prior to a construction certificate being issued for the development, as security for making good any damage caused to the roadway, footway, verge or any public place; or as security for completing any public work; and for remedying any defect on such public works, in accordance with section 80A(6) of the Environmental Planning and Assessment Act 1979:*

a) \$1000.00 - *Damage / Civil Works Security Deposit*

The damage/civil works security deposit may be provided by way of a cash or cheque with the Council and is refundable upon:

- *A satisfactory inspection by Council that no damage has occurred to the Council assets such as roadway, kerb, guttering, drainage pits footway, or verge; and*
- *Completion of the civil works as conditioned in this development consent by Council.*

The applicant is to advise Council, in writing, of the completion of all building works and/or obtaining an occupation certificate, if required.

The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.

The following conditions are applied to provide adequate provisions for access, transport and infrastructure:

44. *Prior to the issuing of an Occupation Certificate the applicant must meet the full cost for Council or a Council approved contractor to:
 - a) Construct concrete vehicular crossings and laybacks at kerb opposite the vehicular entrances to the site.
 - b) Remove any redundant concrete vehicular crossing and layback and to reinstate the area with concrete footpath, turf and integral kerb and gutter to Council's specification.*
45. *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
46. *The applicant shall note that all external work, carried out on Council property, shall be in accordance with Council's Policy for "Vehicular Access and Road and Drainage Works". An application for the cost of the Council civil works is to be submitted to Council at the completion of the internal building works. An application fee shall be payable to Council for the quotation of the required works. The applicant may elect to use his contractor for the required works, subject to Council approval, however a design and supervision fee based on the lowest quotation from Council's nominated contractor will be required to be paid prior to the commencement of any works.*

The following conditions are applied to provide adequate provisions for future civil works in the road reserve:

47. *The Council's Development Engineer has inspected the above site and has determined that the design alignment level at the property boundary for driveways, access ramps and pathways or the like, must be as follows:

Driveway Entrances – 100mm below the back of the existing Council footpath.
Pedestrian Entrances – match the back of the existing council footpath.*
48. *The design alignment levels issued by Council and their relationship to the footpath must be indicated on the building plans for the construction certificate. The design alignment level at the street boundary, as issued by the Council, must be strictly adhered to.*
49. *The above alignment levels and the site inspection by Council's Development Engineer have been issued at a prescribed fee of \$846.00 calculated at \$44.00 (inclusive of GST) per metre of site frontage. This amount is to be paid to Council prior to a construction certificate being issued for the development.*

The following conditions are applied to provide adequate consideration for service authority assets:

50. *A public utility impact assessment must be carried out on all public utility services on the site, roadway, nature strip, footpath, public reserve or any public areas associated with and/or adjacent to the development/building works and include relevant information from public utility authorities and exploratory trenching or pot-holing, if necessary, to determine the position and level of service.*
51. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their*

services as required. The applicant must make the necessary arrangements with the service authority.

52. A Section 73 Compliance Certificate under the Sydney water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the website www.sydneywater.com.au then refer to "Water Servicing Coordinator" under Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Notice must be issued to the Principal Certifying Authority prior to the construction certificate being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development

The following conditions are applied to provide adequate provisions for drainage and associated infrastructure:

53. **Stormwater drainage plans have not been approved as part of this development consent.** Engineering calculations and plans with levels reduced to Australian Height Datum in relation to site drainage shall be submitted to and approved by the certifying authority prior to a construction certificate being issued for the development. A copy of the engineering calculations and plans are to be forwarded to Council, prior to a construction certificate being issue, if the Council is not the certifying authority. The drawings and details shall include the following information:

- a) A detailed drainage design supported by a catchment area plan, at a scale of 1:100 or as considered acceptable to the Council or an accredited certifier, and drainage calculations prepared in accordance with the Institution of Engineers publication, Australian Rainfall and Run-off, 1987 edition.
- b) A layout of the proposed drainage system including pipe sizes, type, grade, length, invert levels, etc., dimensions and types of all drainage pipes and the connection into Council's stormwater system. This may involve either connection to the Council's street gutter, or into a Council stormwater pit. Note: All proposals should indicate the location of the closest Council stormwater pit and line regardless of the point of discharge. This information can be obtained by a visual inspection of the area and perusing Council's drainage plans.
- c) Generally all internal pipelines must be capable of discharging a 1 in 20 year storm flow. However the minimum pipe size for pipes that accept stormwater from a surface inlet pit must be 150mm diameter. The site must be graded to direct any surplus run-off (ie. above the 1 in 20 year storm) to the proposed drainage system.
- d) The separate catchment areas within the site, draining to each collection point or surface pit are to be classified into the following categories:
 - i. Roof areas

- ii. Paved areas
- iii. Grassed areas
- iv. Garden areas

- e) Where buildings abut higher buildings and their roofs are "flushed in" to the higher wall, the area contributing must be taken as: the projected roof area of the lower building, plus one half of the area of the vertical wall abutting, for the purpose of determining the discharge from the lower roof.
- f) Proposed finished surface levels and grades of car parks, internal driveways and access aisles which are to be related to Council's design alignment levels.
- g) The details of any special features that will affect the drainage design eg. the nature of the soil in the site and/or the presence of rock etc.

54. All stormwater run-off naturally draining to the site must be collected and discharged through this property's stormwater system. Such drainage must, if necessary, be constructed prior to the commencement of building work.

55. As the subject development site falls away from Bunnerong Road, all site stormwater must be discharged either:

1. To council's street drainage system in Donovan Avenue by gravity via a private drainage easement through an adjoining private property (or properties); OR
2. To an infiltration system designed in accordance with Council's requirements (subject to a satisfactory Geotechnical Engineers report).

Should the applicant demonstrate that all reasonable attempts to procure a private drainage easement/s have failed, and the ground conditions preclude the use of infiltration, a pump system may be permitted. The pump system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate) and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

56. Should stormwater be discharged to Council's street drainage system, on-site detention must be provided to ensure that the maximum discharge from the above site is not to exceed that which would occur during a **1 in 10** year storm of 1 hour duration for the existing site conditions. All other stormwater run-off from the above site for all storms up to the 1 in 20 year storm is to be retained on the site for gradual release to the kerb and gutter or drainage system as required by the Director of Assets and Infrastructure Services. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

Should no formal overland escape route be provided for storms greater than the design storm, the on-site detention system shall be sized for the 1 in 100 year storm event.

For small areas up to 0.5 hectares, determination of the required cumulative storage must be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Run-off Volume 1, 1987 Edition.

Where possible the detention tank must have an open base to infiltrate stormwater to the groundwater. Note that the ground water and any rock stratum has to be a minimum of 2.0 metres below the base of the tank.

57. *Should stormwater be discharged to an infiltration system, the infiltration area shall be sized for all storm events up to the 1 in 20 year storm event with provision for a formal overland flow path to Council's Street drainage system.*

Should no formal overland escape route be provided for storms greater than the design storm, the infiltration system shall be sized for the 1 in 100 year storm event.

58. *Any Infiltration systems/Absorption Trenches must be designed in accordance with "Section 8.5 ABSORPTION TRENCHES" as stipulated in Randwick City Council's Private Stormwater Code.*

59. *The detention area/infiltration system must be regularly cleaned and maintained to ensure it functions as required by the design.*

60. *The maximum depth of ponding in above ground detention areas (and/or infiltration systems with above ground storage) shall be as follows:*

- a) 150mm in uncovered carparking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area).*
- b) 300mm in landscaped areas (where child proof fencing is not provided around the outside of the detention area and sides slopes are steeper than 1 in 10)*
- c) 600mm in landscaped areas where the side slopes of the detention area have a maximum grade of 1 in 10.*
- d) 1200mm in landscaped areas where a childproof fence is provided around the outside of the detention area.*

Notes:

- It is noted that above ground storage will not be permitted in basement carparks or in any area which may be used for storage of goods.*
- Mulch/bark must not be used in onsite detention areas.*

61. *The stormwater detention area (and/or infiltration systems with above ground storage) must be suitably signposted where required, warning people of the maximum flood level.*

62. *The floor level of all habitable and storage areas adjacent to the detention area (and/or infiltration systems with above ground storage) must be a minimum of 300mm above the maximum water level for the design storm or alternately a permanent 300mm high water proof barrier is to be constructed.*

(In this regard, it must be noted that this condition must not result in any increase in the heights or levels of the building. Any variations to the heights or levels of the building will require a new or amended development consent from the Council prior to a construction certificate being issued for the development).

63. *A childproof and corrosion resistant fastening system shall be installed on access grates over pits/trenches where water is permitted to be temporarily stored.*

64. *A 'V' drain is to be constructed along the perimeter of the property, where required, to direct all stormwater to the detention/infiltration area.*

65. *Should a pump system be required to drain any portion of the site the system must be designed with a minimum of two pumps being installed, connected in parallel (with each pump capable of discharging at the permissible discharge rate)*

and connected to a control board so that each pump will operate alternatively. The pump wet well shall be sized for the 1 in 100 year, 2 hour storm assuming both pumps are not working.

The pump system must also be designed and installed strictly in accordance with "Section 8.4 PUMP SYSTEMS" as stipulated in Randwick City Council's Private Stormwater Code.

66. A sediment/silt arrester pit must be provided:

- a) within the site at or near the street boundary prior to the site stormwater discharging by gravity to the kerb/street drainage system; and
- b) prior to stormwater discharging into any absorption/infiltration system.

The sediment/silt arrester pit shall be constructed in accordance with the following requirements:

- The base of the pit located a minimum 300mm under the invert level of the outlet pipe.
- The pit constructed from cast in-situ concrete, precast concrete or double brick.
- A minimum of 4 x 90 mm diameter weep holes located in the walls of the pit at the floor level with a suitable geotextile material with a high filtration rating located over the weep holes.
- A galvanised heavy-duty screen located over the outlet pipe/s (Mascot GMS multipurpose filter screen or equivalent).
- The grate being a galvanised heavy-duty grate that has a provision for a child proof fastening system.
- A child proof and corrosion resistant fastening system provided for the access grate.
- A sign adjacent to the pit stating:

"This sediment/silt arrester pit shall be regularly inspected and cleaned."

Note: Sketch details of a standard sediment/silt arrester pit may be obtained from Council's Drainage Engineer.

67. Prior to the issue of an occupation certificate, a "restriction on the use of land" and "positive covenant" (under section 88E of the Conveyancing Act 1919) shall be placed on the title of the subject property to ensure that the onsite detention system and/or infiltration system is maintained and that no works which could affect the design function of the detention system are undertaken without the prior consent (in writing) from Council. Such restriction and positive covenant shall not be released, varied or modified without the consent of the Council.

Notes:

- a. The "restriction as to user" and "positive covenant" are to be to the satisfaction of Council. A copy of Council's standard wording/layout for the restriction and positive covenant may be obtained from Council's Development Engineer.
- b. The linen plans shall indicate the location and dimensions of the detention/infiltration areas.
- c. The works as executed drainage plan and hydraulic certification must be submitted to Council prior to the "restriction on the use of land" and "positive covenant" being executed by Council.

68. Prior to the issuing of an occupation certificate, the applicant shall submit to Council, a works-as-executed drainage plan prepared by a registered surveyor and approved by a suitably qualified and experienced Hydraulic Engineer. The works-

as-executed drainage plan shall be to the satisfaction of the Principal Certifying Authority (PCA) and shall include the following details:

- a) The location of the detention basin with finished surface levels;*
 - b) Finished site contours at 0.2 metre intervals;*
 - c) Volume of storage available in the detention areas;*
 - d) The location, diameter, gradient and material (i.e PVC, RC etc) of all stormwater pipes;*
 - e) The orifice size(s) (if applicable);*
 - f) Details of any infiltration/absorption systems; and*
 - g) Details of any pumping systems installed (including wet well volumes).*
- 69. Prior to the issuing of an occupation certificate, the applicant shall submit to the Principal Certifying Authority (PCA) and Council, certification from a suitably qualified and experienced Hydraulic Engineer confirming that the design and construction of the stormwater drainage system complies with the conditions of development consent. The certification must be provided to the satisfaction of the PCA.*

The following conditions are applied to provide adequate provisions for waste management:

- 70. Prior to the credited certifier issuing an occupation certificate for the proposed development the applicant is to contact Council's Manager of Waste in regards to meeting Council's requirements for waste services to the additional residence/dual occupancy*

The following conditions are applied to provide adequate provisions for landscaping and to maintain reasonable levels of environmental amenity:

- 71. Landscaping shall be provided to the site to enhance its amenity and reduce the impact of the development upon neighbouring properties. A landscape plan shall be submitted to and approved by the Director of Planning & Community Development, in accordance with section 80A(2) of the Environmental Planning and Assessment Act 1979, **prior to a construction certificate being issued.***
- 72. Landscaped areas must contain a predominance of species that require minimal watering once established or species with water needs that match rainfall and drainage conditions.*
- 73. Landscaped areas must include an area dedicated to on-site composting.*
- 74. The landscaping shall be installed in accordance with the approved documentation prior to the issue of a final occupation certificate and shall be maintained in accordance with those plans.*
- 75. The naturestrip upon Council's footway shall be excavated to a depth of 150mm, backfilled with topsoil equivalent with 'Organic Garden Mix' as supplied by Australian Native Landscapes, and re-turfed with Kikuyu Turf or similar. Such works shall be installed prior to the issue of a final Occupation Certificate.*
- 76. In order to visually 'soften' the expanses of hard pavement, brick unit pavers or similar shall be used throughout the driveway and carpark areas on the site. Such details shall be shown on the detailed engineering documentation and shall include all structural design details including pavement/subgrade thickness.*

Such details shall be in accordance with the relevant Australian Standard and shall be submitted to, and approved by, the Principal Certifying Authority, prior to the issue of the Construction Certificate.

77. *The applicant shall be required to ensure the retention and long term health of all trees located on adjoining properties adjacent to the proposed development. As a general guide there shall be minimal excavation or root pruning within the dripline/s of the subject tree/s.*

The following conditions are imposed to satisfy the requirements of the Road and Traffic Authority

78. *The proposed driveway crossing on Bunnerong Road shall be designed to meet RTA's requirements, and endorsed by a Chartered Engineer (ie; who is registered with the Institution of Engineers, Australia). The design requirements shall be in accordance with the RTA's Road Design Guide and other Australian Codes of Practice. Details of these requirements could be obtained from the RTA's Project Services Manager, Traffic Projects Section, Parramatta (ph: 02 8849 2144).*
79. *All vehicles enter and exit the site must do so in a forward direction.*
80. *Any landscape provisions must allow sufficient sight vision for pedestrians and cyclists who may use the footpath.*
81. *All works associated with the proposed development shall be at no cost to the RTA.*

ADVISORY MATTERS:

- A1 ***Building or excavations works must not be commenced until a construction certificate has been obtained from Council's Building Certification Services or an Accredited Certifier and either Council's Building Certification Services or an Accredited Certifier has been appointed as the Principal Certifying Authority (PCA) for this development.***

Failure to obtain a Construction Certificate and appoint a PCA before commencing works is an offence, which renders the responsible person liable to a maximum penalty of \$1.1 million under the Environmental Planning & Assessment Act 1979.

- A2 *The applicant is advised that the Construction Certificate plans and specification must comply with the provisions of the Building Code of Australia (BCA) and the construction certificate must not be inconsistent with the development consent.*

In this regard, the development consent plans do not show compliance with the deemed-to-satisfy provisions of the BCA.

Details of compliance with the relevant provisions of the Building Code of Australia and conditions of development consent are to be provided in the plans and specifications for the construction certificate.

You are therefore advised to ensure that the development is not inconsistent with Council's consent and to consult with Council's Building Certification Services or an accredited certifier prior to submitting your construction certificate application to enable these matters to be addressed accordingly.

- A3 *The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.*

MOTION: (Notley-Smith/Andrews) CARRIED – SEE RESOLUTION.

**6.8 DEVELOPMENT APPLICATION REPORT - 37 MELROSE PARADE, CLOVELLY.
(DA/403/2007 & PROP018050)**

H104 **RESOLUTION: (Tracey/Notley-Smith) that:**

- A. *Council's original determination of Development Application No. DA/403/2007 dated 18 June 2007, for alterations and ground and first floor additions to existing semi-detached dwelling, including new car space at front of the dwelling, at No. 37 Melrose Parade, Clovelly, be confirmed.*
- B. *Condition 5 be amended to read as follows:*
5. *The proposed pergola in front of the existing dwelling shall be deleted from the proposal. Amended plans demonstrating compliance with the above requirement is to be submitted to the Certifying Authority prior to issue of the Construction Certificate.*
- C. *the following additional conditions be imposed to read as follows:*
32. *The applicant must meet the full cost for Council or a Council approved contractor to repair/replace any damaged sections of Council's footpath, kerb & gutter, nature strip etc which are due to building works being carried out at the above site. This includes the removal of cement slurry from Council's footpath and roadway.*
33. *The applicant must meet the full cost for telecommunication companies, gas providers, Energy Australia and Sydney Water to adjust/repair/relocate their services as required. The applicant must make the necessary arrangements with the service authority.*
- D. *the following additional advisory condition be imposed to read as follows:*
- A3. *The applicant is to advise Council in writing and/or photographs of any signs of existing damage to the Council roadway, footway, or verge prior to the commencement of any building/demolition works.*

MOTION: (Tracey/Notley-Smith) CARRIED – SEE RESOLUTION.

**6.9 DEVELOPMENT APPLICATION REPORT - 6 ARGYLE CRESCENT,
KINGSFORD. (DA/747/2002/C & PROP038060 & 45819)**

H105 **RESOLUTION: (Andrews/Procopiadis) that:**

- A. *Council, as the responsible authority, grant its consent under Section 96(1A) of the Environmental Planning and Assessment Act 1979 (as amended) to modify deferred commencement conditions No 1 and 2 (relating to site audit statement and site safety), length of deferred commencement approval, and conditions No 3, 8, 12, 22, 38, 44, 49, 6, and 70 (relating to reuse of materials on site, indemnity landscaping, completion of infrastructure works, importation of topsoil, construction of pedestrian bridge, deed of agreement, site health safety plan and regrading works) at 6 Argyle Crescent, Kingsford in the following manner:*
1. *Deferred Commencement Condition No. 1 be amended to read:*
- "1. *A Site Audit Statement (SAS) together with a Summary Site Audit Report (SSAR) in the format defined by the Contaminated Land Management Regulation 1998. The site Audit Statement must clearly state, where no standard exists, as with asbestos, that the remediated land is at an asbestos free level or to a level where no unacceptable health risk remains as confirmed in writing by NSW Department of Health. The entire site*

must be remediated to not less than the National Environmental Health Forum's health based soil investigation level (NEHF E) standard, (which is the remediation standard for open space)."

2. *Deferred Commencement Condition No. 2 be amended to read:*

"2. A statement shall be submitted to Council together with relevant testing and justification by an independent and appropriately qualified professional confirming that the site, and in particular the former use of part of the site as an old grenades range, poses negligible risk from unexploded ordinance and that the land is suitable for its intended land use. The assessment shall have regard for any risk from prescribed (ecological) burns and bush fires in the proposed Randwick Environmental Park. Should the opinion make recommendations to negate risk, all recommendations are to be carried out and certified prior to this consent commencing."

3. *the following sentence be deleted from the Deferred Commencement Condition:*

"Evidence required to satisfy the above conditions must be submitted to Council within 12 months of the date of this consent in accordance with Clause 95(3) of the Environmental Planning and Assessment Amendment Regulation 1998, or the consent will lapse."

4. *Condition No. 3 be amended to read:*

"3. "Before any contaminated material is beneficially reused on-site such material must be certified by an unconditional Site Audit Statement (SAS) together with a Summary Site Audit Report (SSAR) in the format defined by the Contaminated Land Management Regulation 1998 and shall be furnished to Council prior to the beneficial re-use of such material on-site for above ground works or works not directly ancillary to a remediation process. The Consultant and Auditor, in their assessment of appropriate soil investigation levels, must take into account all environmental concerns (for example, the potential effects on wildlife) and the protection of ground and surface water. Any contaminated material to be beneficially re-used on-site must be remediated to NEHF A for residential use and/or NEHF E for open space."

5. *Condition No. 8 be deleted.*

6. *Condition No. 12 be amended to read:*

"12. The following conditions in respect of indemnity shall be met:

(a) Prior to the issue of any construction certificate in respect of any works permitted by this development consent, the Applicant must procure the execution and delivery to the Council by the Commonwealth of Australia ('Commonwealth') of a Commonwealth Indemnity.

(b) In this condition, 'Commonwealth Indemnity' means a covenant by deed in the following terms as agreed to by Council in writing.

'The Commonwealth irrevocably and unconditionally indemnifies Randwick City Council ('Council') against all legal liability of any nature which Council may incur for a period of 40 (forty) years from 17 September 2002, for or in respect of any death, personal injury, or damage to property, arising from or incurred in connection with any soil or ground water contamination in, of, or on the site of the proposed Randwick Environmental Park, arising from or patently or latently connected with Defence activity or occupation of

the site, or any remediation by or on behalf of Defence (Commonwealth) of any soil or groundwater contamination in, of, or on the site of the proposed Randwick Environmental Park, arising from Defence activity or occupation of the site, whether or not the Council knew or should have known about a fact or circumstance that gives rise to a liability under this indemnity.' "

7. Condition No. 22 be amended to read:

"22. Prior to the commencement of site construction works the applicant shall give Council a suitably worded undertaking stating that the applicant will implement and maintain the landscape works in accordance with the approved landscape documentation until dedication and transfer of title to Randwick City Council."

8. Condition No. 38 be amended to read:

"38. All proposed infrastructure works within the Randwick Environmental Park, (excluding those works that could be categorised as "Bushland Works"), shall be completed to Council's satisfaction prior to the Randwick Environmental Park being transferred to Council ownership."

9. Condition No. 44 be deleted.

10. Condition No. 49 be amended to read:

"49. No topsoil shall be imported into the Randwick Environmental Park in any planting areas except as agreed to by Council."

11. Condition No. 67 be amended to read:

"67. A minimum 2300mm wide, timber and steel pedestrian bridge shall be constructed over the bushland and easement in the north west of REP, from the corner of Banksia St and Hendy Ave to the Community Facility. The bridge shall meet the requirements for wheelchair access except for the viewing platform. Full design details for the subject bridge shall be submitted for approval with the construction certificate application. The applicant shall contact Council's Development Engineer to discuss Council's design requirements for this bridge prior to lodgement/preparation of the construction certificate application."

12. Condition No. 70 be amended to read:

"70. Prior to the issue of a construction certificate the Applicant on behalf of the Commonwealth of Australia must enter into a deed of agreement with Randwick City Council to give effect to the following:

A. Year One Infrastructure Works

i. All costs associated with the first year infrastructure works to establish the Randwick Environmental Park shall be met by the Applicant and those works must be completed to the satisfaction of the Council.

ii. The Applicant shall prepare a schedule detailing the components of the infrastructure works. This schedule is subject to approval by the Council and if approved shall be annexed to and form part of the deed of agreement referred to in this condition.

B. Maintenance Program

i. Upon completion of the first year infrastructure works and subsequent dedication

of the Randwick Environmental Park to Council the Applicant shall pay the Council the lump sum of two and a half million dollars (\$2.5m) towards the cost of management and maintenance of the Randwick Environmental Park for a period of nineteen (19) years. The applicant is to make a forward payment to Council of half a million dollars (\$0.5m) within 3 months of the date of issue of a Construction Certificate for the REP.

- ii. The Applicant shall prepare a schedule detailing the components of the maintenance program for the nineteen (19) year period following the dedication of the Randwick Environmental Park. This schedule is subject to approval by the Council and if approved shall be annexed to and form part of the deed of agreement referred to in this condition."

MOTION: (Andrews/Procopiadis) CARRIED – SEE RESOLUTION.

6.10 DEVELOPMENT APPLICATION REPORT - 33-149 BUNDOCK STREET AND 373A AVOCA STREET, KINGSFORD. (DA/428/2002/D & PROP038060)

H106 **RESOLUTION: (Andrews/Procopiadis)** that Council as the responsible authority grant its consent under Section 96(1A) and 96(2) of the Environmental Planning and Assessment Act 1979 (as amended) to modify condition No. 12 relating to insurance to cover environmental liability of Development Consent 428/2002 at 33-149 Bundock Street and 373A Avoca Street, Kingsford in the following manner:

1. That Condition No. 12 be amended to read:

"12. Prior to the issue of any future construction certificate in respect of any works permitted by this Development Consent" the Applicant must procure the execution and delivery to the Council by the Commonwealth of Australia ('Commonwealth') of a Commonwealth Indemnity.

In this Condition, 'Commonwealth Indemnity' means a covenant by deed in the following terms **or similar terms** agreed to by Council in writing.:

'The Commonwealth irrevocably and unconditionally indemnifies Randwick City Council ('Council') against all legal liability of any nature which the Council may incur for a period of 40 (forty) years from 17 September 2002, for or in respect of any death, personal injury, or damage to property, arising from or incurred in connection with any soil or groundwater contamination in, of, or on the Stage 1B site arising from or patently or latently connected with Defence activity or occupation of the site, or any remediation by or on behalf of Defence (Commonwealth) of any soil or groundwater contamination in, of, or on the site, whether or not the Council knew or should have known about a fact or circumstance that gives rise to a liability under this indemnity.'

MOTION: (Andrews/Procopiadis) CARRIED – SEE RESOLUTION.

7. MISCELLANEOUS.

7.1 DIRECTOR, CITY PLANNING REPORT 115/2007 - UPDATE ON PREPARATION OF THE COMPREHENSIVE LEP AND DCP. (F2007/00569)

H107 **RESOLUTION: (Matson/Hughes)** that:

- a) Council note the process and progress of preparing the discussion papers as background work for input into the Comprehensive LEP and DCP; and
- b) the Urban Forest Policy Discussion Paper be referred to both the Greening Randwick Committee and the Environment Committee for consideration.

MOTION: (Matson/Hughes) CARRIED – SEE RESOLUTION.

7.2 DIRECTOR, CITY PLANNING REPORT 116/2007 - DRAFT CULTURAL PLAN, 'A CULTURAL RANDWICK CITY'. (F2004/08008)

H108 **RESOLUTION: (Hughes/Matson) that:**

- a) *Council endorse the draft 'A Cultural Randwick City' to be exhibited for community comment; and*
- b) *It be noted that a further report will be submitted to Council after the exhibition period.*

MOTION: (Hughes/Matson) CARRIED – SEE RESOLUTION.

7.3 DIRECTOR, CITY PLANNING REPORT 117/2007 - MAROUBRA BEACH URBAN DESIGN REVIEW STUDY. (F2006/00355)

H109 **RESOLUTION: (Matson/Tracey) that:**

- a) *Council endorse Option 3 as the long term preferred option and direct the General Manager to begin discussions with South East Area Health in relation to the relocation of the Ambulance Station and Option 1 as the alternative preferred solution; and*
- b) *Council endorse placing the draft Maroubra Beach Commercial Centre Review on public exhibition for a period of 8 weeks – from mid January to mid March 2008.*

MOTION: (Matson/Tracey) CARRIED – SEE RESOLUTION.

7.4 DIRECTOR, CITY PLANNING REPORT 118/2007 - DRAFT AFFORDABLE HOUSING STRATEGY AND ACTION PLAN. (F2004/07991)

H110 **RESOLUTION: (Woodsmith/Matson) that the attached Draft Affordable Housing Strategy and Action Plan be adopted by Randwick City Council.**

MOTION: (Woodsmith/Matson) CARRIED – SEE RESOLUTION.

8. CONFIDENTIAL ITEMS (CLOSED SESSION).

Nil.

9. NOTICES OF RESCISSION MOTIONS.

Nil.

The meeting closed at 9.07pm.

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CHAIRPERSON