



**MINUTES OF ORDINARY COUNCIL MEETING OF THE COUNCIL OF
THE CITY OF RANDWICK HELD ON TUESDAY, 26 AUGUST 2008 AT
6:10 PM.**

Present:

The Mayor, Councillor B Notley-Smith (Chairperson) (East Ward)

Councillor M Matson (Deputy Chairperson) (East Ward)

North Ward	- Councillors J Kenny & P Tracey & M Woodsmith
South Ward	- Councillors R Belleli, M Daley (from 7.40pm) & A White
East Ward	- Councillor D Sullivan
West Ward	- Councillors B Hughes, S Nash & J Procopiadis
Central Ward	- Councillors A Andrews, C Bastic (from 8.05pm) & T Seng

Officers Present:

General Manager	Mr R Brownlee
Director City Services	Mr J Frangoples
Director City Planning	Ms S Truvert
Director Governance & Financial Services	Mr G Banting
Manager Administrative Services	Mr D Kelly
Manager Development Assessment	Mr K Kyriacou
Manager Communications	Ms D Brien
Manager Organisational Performance	Ms K Walshaw

Prayer & Acknowledgement of Local Indigenous People

The Council Prayer was read by Cr Seng. The Acknowledgement of Local Indigenous People was read by Cr Woodsmith.

Apologies/Granting of Leave of Absences

Nil.

Confirmation of the Minutes

**CONFIRMATION OF THE MINUTES OF THE ORDINARY COUNCIL MEETING
HELD ON TUESDAY 22 JULY 2008**

237/08

RESOLUTION: (Nash/Andrews) that the Minutes of the Ordinary Council Meeting held on Tuesday 22 July 2008 (copies of which were circulated to all Councillors) be

and are hereby confirmed as a correct record of the proceedings of that meeting.

Declarations of Pecuniary and Non-Pecuniary Interests

- (a) Cr Belleli declared a non pecuniary interest in item MM64/08 as his wife's dance school has previously performed at this event at no charge.
- (b) Cr Matson declared a non pecuniary interest in item MM70/08 as his daughter attends the school concerned.
- (c) Cr Tracey declared a non pecuniary interest in item CP40/08 as he is associated politically with one of the objectors.

RESOLVED: (Procedural Motion) (Hughes/Matson) that Cr Hughes' concern be noted regarding ALP Councillors not declaring an interest in confidential item GM33/08. **CARRIED.**

- (d) After being made aware of the above, Cr Sullivan declared a non pecuniary interest on behalf of all Labor Councillors in confidential item GM33/08 as the assignee was a donor to the 2004 ALP Municipal Committee. In addition, Cr Daley advised that he has served with the applicant on many port related committees and did not take part in debate or voting on the matter.
- (e) Cr Andrews declared a non pecuniary interest in confidential item GM33/08 as the assignee was a donor to the 2004 ALP Municipal Committee and he was a member of the ALP at the time.
- (f) Cr Sullivan declared a non pecuniary interest in item CP46/08 as his occupation is involved in the childcare industry and will be taking no part in discussion or voting on the matter

Address of Council by Members of the Public

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

CP40/08 7 NORTHUMBERLAND STREET, CLOVELLY

Against Anthony Betros

For Peter Zaverdinos

CP41/08 16A MELODY STREET, COOGEE

Against Kirsty Pryer

For Anthony Betros

CP43/08 9 LURLINE STREET, MAROUBRA

Against Tony Moody

For Andy McDonald

CP44/08 26 FRANKLIN STREET, MATRAVILLE

Against Anthony Betros

For Silvio Stillone

CP45/08 47-49 BREAM STREET, COOGEE

Against Ronald Driels

For Sharon Deans

CP46/08 61 MILROY AVENUE, KENSINGTON

For Victor Berk

CP47/08 286 RAINBOW STREET, COOGEE

Against Bill Linehan

CP48/08 10 IVY STREET, RANDWICK

Against Ralph Stanford

For John Spiteri

NM33/08 MOTION PURSUANT TO NOTICE BY CR BELLELI - DISCUSSION GROUP - COMMUNITY CENTRE NEAR MAROUBRA BEACH

For Rev. Steven Bligh

NM38/08 MOTION PURSUANT TO NOTICE BY CR MATSON - SIGNAGE AROUND DEFENCE FORCE LAND AT BUNDOCK STREET

For Ms Felicia Harris

The meeting was adjourned at 7.42 pm and was resumed at 8.05 pm.

Mayoral Minutes

MM62/08 Mayoral Minute - Waiving of Fees - Gracepoint Christian Church - Clean Up Australia Day (F2004/08302)

238/08 **RESOLUTION: (Mayor, Cr B Notley-Smith) that:**

- a) Council vote \$8,524.75 to cover part of the associated fees including hire of stage, cover, sound system, tattoos and banner for the '2008 Maroubra Beach Clean Up Australia Day Festival' and the funds be charged to the 2008/09 Contingency Fund;
- b) the event organiser undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event; and
- c) the Mayor or his representative be given the opportunity to address the event on behalf of Council.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM63/08 Mayoral Minute - Australia Day Community Service Awards 2009 (F2006/00216)

239/08 **RESOLUTION: (Mayor, Cr B Notley-Smith) that:**

- a) Council agree to the proposal to amend the Australia Day Award name from the Australia Day Community Service and Youth Awards to Randwick City Community Service Award and to provide a medallion for finalists who meet all

eligible criteria in the Awards; and

- b) Council approve use of \$500.00 from the agreed 2008/09 Events budget for the purchase of medallions.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM64/08 Mayoral Minute - Waiving Of Fees - Maroubra Chamber of Commerce - Market Day, Fun Run and Oktoberfest (F2004/08114)

240/08

RESOLUTION: (Mayor, Cr B Notley-Smith) that

- a) Council vote \$4,559.00 to cover the costs associated with Council's contribution towards the organising of the Maroubra Fun Run, Oktoberfest and Market Day to be held on Sunday 19 October 2008, and that these funds be allocated from the 2008/2009 Contingency Fund;
- b) Council advise the organisers of the Maroubra Fun Run, Oktoberfest and Market Day, that Council be given adequate and appropriate acknowledgement for its contribution to the running of this event. Such acknowledgement to include Council's logo for inclusion on promotional literature and Council's banner be displayed at the event; and
- c) the organisers be advised that Council requires an acceptance in writing that should Council property be damaged in any way the organisers of the event will compensate Council for the repair or replacement of the damaged item(s).

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM65/08 Mayoral Minute - Financial Support for Australian Paralympic Athletes - Sarah Stewart and Rick Pendleton (F2004/06574)

241/08

RESOLUTION: (Mayor, Cr B Notley-Smith) that Council donate \$1,500.00 to help cover the costs of Sarah Stewart and Rick Pendleton representing Australia at the 2008 Paralympic Games, such funds to come from the Mayor's Future Champions Fund.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM66/08 Mayoral Minute - Maroubra Surf Club - Use of Des Renford Aquatic Centre for Annual Nippers Swimming Proficiency Test - Waiving of Fees. (F2004/06607)

242/08

RESOLUTION: (Mayor, Cr B Notley-Smith) that:

- a) Council vote to waive the \$2,220.00 fees associated with the Maroubra Surf Club annual proficiency test for children to be held on two (2) Sundays in September 2008 (21 and 28 September) and that this amount be funded from the 2008/09 Contingency Fund; and
- b) the Maroubra Surf Club work with Des Renford Aquatic Centre staff to obtain the best times and dates to ensure that regular user groups and current bookings are not affected.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM67/08 Mayoral Minute - Extending our City / Country Sustainability Schools Exchange to Temora Shire (F2007/00484)

243/08

RESOLUTION: (Mayor, Cr B Notley-Smith) that Council receive and note this report.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM68/08 Mayoral Minute - Request for Donation for the Karitane 3rd Annual Charity Golf Day (F2004/06574)

244/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council donate \$500.00 to Karitane's 3rd Annual Golf Day and that the funds be allocated from the 2008/09 Contingency Fund.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM69/08 Mayoral Minute - Waiving of Fees to Hang Banner for St Spyridon's College - Spring Fair (F2004/06257)

245/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) the fees associated with the installation and dismantling of a banner for the St Spyridon College (on the flagpole at the intersection of Anzac Parade and Beauchamp Road, Maroubra), be waived and \$2,904.00 be allocated from the 2008/09 Contingency Fund; and
- b) the fundraising event organiser undertakes to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM70/08 Mayoral Minute - Proposed 2009 Coogee Mini-Marathon - Coogee Public School (F2004/06574)

246/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council support the proposed Coogee Mini-Marathon in-principle.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM71/08 Mayoral Minute - The Progressive Community of Agiassos - Use of Town Hall for Photographic Competition (F2004/08174)

247/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that:

- a) the fees for use of the Town Hall (for Friday 28 February to Sunday 1 March 2009) by the Progressive Community of Agiassos be waived and the funds be charged to the 2008/2009 Contingency Fund;
- b) the event organisers undertake to appropriately and prominently acknowledge and promote Council's contribution prior to and during the event; and
- c) the Mayor or his representative be given the opportunity to address the event on behalf of Council.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM72/08 Mayoral Minute - Australian Mayoral Aviation Council - Invitation to Become a Member (F2004/07493)

248/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council become a member of the Australian Mayoral Aviation Council and continues its fight against the Government's plans to expand the Airport's operating capacity, as well as the suitability of retail and commercial development proposals for the Airport site.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM73/08 Mayoral Minute - Council Co-ordination of Incentive Package for Energy and Water Saving Measures for Householders and Businesses in Randwick (F2007/00474)

249/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council authorise the General Manager to negotiate with the above providers, Green Solar Group, JackGreen Energy and Bendigo Community Bank to enable a package of energy and water saving measures to be communicated to Randwick residents and businesses and a report be brought back to Council for determination.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM74/08 Mayoral Minute - Celebration of Cycling - 3-Council NSW Bike Week Event (F2008/00383)

250/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that the report be received and noted.

MM75/08 Mayoral Minute - Earth Festival Centennial Park, November 2008 - Request for Sponsorship (F2004/06257)

251/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council agrees to waive fees and support banner installation as above to promote the Celebrate Planet Earth Festival for the amount of \$4,000.00 from the environmental levy program.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

MM76/08 Mayoral Minute - Tibet to Nepal Bike Ride - Request for Financial Assistance (F2004/07396)

252/08 **RESOLUTION: (Mayor, Cr B Notley-Smith)** that Council provide a \$500.00 donation to Ms Sally Ann Hunting in support of her Tibet to Nepal Bike Ride to raise money for the Oncology Children's Foundation at Westmead Hospital and the Children's Hospital at Randwick.

MOTION: (Mayor, Cr B Notley-Smith) CARRIED - SEE RESOLUTION.

Urgent Business

- (a) Cr White advised that Council staff member Mark Scott won two gold and one silver medal at the Seniors Surfing Titles in Germany. A fitting tribute will be organised for Mr Scott to congratulate him on a tremendous achievement.
- (b) Cr Belleli advised that Jane Saville will be retiring after a wonderful career in which she represented Australia numerous times. A letter will be sent to Ms Saville congratulating her on her achievements.
- (c) Cr Sullivan requested that retiring Councillors be permitted to make their valedictory speeches at this stage of the meeting. The Mayor ruled that these speeches will be heard later in meeting. A motion of dissent on the ruling of the Chairperson was moved by Crs Sullivan and Bastic and was lost.

Councillors Sullivan and Bastic called for a **DIVISION**.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Bastic	Councillor Andrews
Councillor Procopiadis	Councillor Belleli
Councillor Tracey	Councillor Hughes
Councillor White	Councillor Kenny
Councillor Daley	Councillor Matson

Councillor Sullivan

Councillor Nash
 Councillor Notley-Smith
 Councillor Seng
 Councillor Woodsmith
Total (10)

Total (5)**Director City Planning Reports****CP40/08 Director City Planning Report - 7 Northumberland Street, Clovelly (DA/950/2007)**

253/08

RESOLUTION: (Kenny/Andrews)

That Council, as the consent authority, grants development consent under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/950/2007 for alterations and additions to an existing detached dwelling house, including construction of a new first floor level, minor amendments to the ground level layout and provision of an upper level rear terrace, at No. 7 Northumberland Street, Clovelly, 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 following plans:

Plan Number / Title	Dated	Received On
0611 - A02 "Proposed Ground Floor Plan" & "Proposed First Floor Plan"	Oct 07	1 April 2008
0611 - A03 "North, South, East, West Elevations"	Oct 07	1 April 2008
0611 - A04 "Section AA"	Oct 07	1 April 2008

prepared by Archicorp Architects + Project Managers, the application form and 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 "Colour & Finishes Schedule - Proposed Alterations & Additions - 7 Northumberland Street, Clovelly", prepared by Archicorp Architects + Project Managers and received by Council on 7 March 2008.
3. The external walls of the dwelling must be located not less than 900mm from any boundary of the subject site.
4. Eaves, gutters, hoods and similar structures or attachments are required to be setback from the side boundaries of the allotment a minimum distance of 500mm and details of compliance are to be included in the construction certificate details.
5. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
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.

7. Street numbering must be provided to the premises in a prominent position, in accordance with the Australia Post guidelines and AS / NZS 4819: 2003 to the satisfaction of Council, prior to an occupation certificate being issued for the development.
8. Any proposed fences located on the side or rear boundaries of the premises shall not exceed a maximum height of 1,800mm, measured above the existing ground levels.

On sloping sites or at changes in ground levels, the maximum height of the fence may exceed the abovementioned specified height by up to 150mm maximum adjacent to any required 'step-downs' or changes in ground level.

The applicant and owner are advised that the relevant provisions of the Dividing Fences Act 1991 are to be satisfied accordingly and any necessary approvals or agreements should be obtained from the owner/s of the adjoining land beforehand.

9. A privacy screen reaching not less than 1.6m in height as measured from the finished floor level, shall be installed on both side elevations of the proposed first floor rear terrace.

The privacy screens shall extend for a distance of 2.5m from the rear (eastern) wall of the first floor addition. The privacy screens shall be constructed of 35mm wide timber slats, horizontally or vertically positioned, and spaced at a maximum of 35mm, or other appropriate screening devices that achieve the same level of privacy for the adjoining dwellings at Nos. 5 and 9 Northumberland Street, Clovelly.

Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.

10. A 1.8m high privacy screen shall be installed on both side elevations of the existing ground floor rear balcony.

The privacy screens shall be constructed of 35mm wide timber slats, horizontally or vertically positioned, and spaced at a maximum of 35mm, or other appropriate screening devices that achieve the same level of privacy for the adjoining dwellings at Nos. 5 and 9 Northumberland Street, Clovelly.

Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.

11. The maximum ridge height of the proposed development shall be reduced by a minimum of 200mm, so that it does not exceed RL 46.84m AHD. No other changes to the external wall height, building footprint or setbacks are permitted or implied in this condition. Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.

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

12. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

The following condition is applied to meet additional demands for public facilities:

13. 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
Development cost \$100,001 - \$200,000	-----	0.5%	-----
Development cost more than \$200,000	\$227,500	1.0%	\$2,275

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 imposed to promote ecologically sustainable development and energy efficiency.

14. 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.
15. 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.

16. 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)

17. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

18. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

19. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

20. 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.

21. 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*.

22. **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.

23. **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.

24. 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.

25. 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".

26. 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.

27. **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.

28. 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.

29. 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.

30. 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:

30. The demolition of buildings and 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.
31. 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 any asbestos materials 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.*

32. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:
- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

33. 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.

34. 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 person is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

35. 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.

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.

36. 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.

37. 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**.

38. 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 road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following condition has been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

39. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

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:

40. 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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.

41. 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.

The following condition has been applied to ensure that adequate security provisions are made for vehicular access, parking and public infrastructure:

42. The applicant must meet the full cost for Council or a Council approved contractor to install vehicular crossings and 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.

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 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.

MOTION: (Kenny/Andrews) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**CP41/08 Director City Planning Report - 16A Melody Street, Coogee
(DA/964/2007)**

254/08

RESOLUTION: (Bastic/White)

- A. That Council, as the consent authority, grants development consent by "Deferred Commencement" under Section 80(3) of the Environmental Planning and Assessment Act 1979, as amended, to Development Application No. DA/964/2007 for alterations and additions to an existing semi-detached dwelling, including construction of a new first floor level, rear decks, a single garage, an in-ground swimming pool and associated landscape works, at No. 16A Melody Street, Coogee, subject to the following conditions:

Deferred Commencement Condition

The consent is not to operate until the following information/materials/amendments have been submitted to, and approved by, Council's Director of City Planning:

1. Prior to issuing development consent for the proposed garage with turntable, the applicant is to submit to Council for approval, and have approved, full design details demonstrating that there are sufficient clearances, together with manoeuvring areas, for standard vehicles to use the turntable as proposed.

The applicant must submit the following details, as a minimum, for approval by Council:

- Garage Plan showing turntable dimensions and clearances.
- Vehicle base dimensions for B85 template (AS/NZS 2890.1:2004).
- Letter from the vehicle turntable manufacturer stating that the garage and turntable proposed by the applicant will supply satisfactory clearances for vehicle base dimensions for B85 template (AS/NZS 2890.1:2004).
- Turning paths from the Right of Way into the proposed garage and from the proposed garage out onto the Right of Way using turning path for B85 Design Template -5.8m radius. (See figure B5 of AS/NZS 2890.1:2004).

- Details and extent of any level changes to the Right of Way so as to provide access to the proposed garage.

Evidence required to satisfy the above conditions must be submitted to Council within 12 months of the date of this consent.

Development Consent Conditions

- B. Subject to compliance with the deferred commencement conditions, to the satisfaction of the Director of City Planning, development consent is granted under Sections 80 and 80A of the Environmental Planning and Assessment Act 1979, subject to the following conditions:

Conditions of Consent

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 following plans:

Plan Number	Dated	Received
DA/01/A	11-06-08	23 June 2008
DA/02/A	11-06-08	23 June 2008
DA/03/A	11-06-08	23 June 2008
DA/04/A	11-06-08	23 June 2008

, prepared by Form Architecture, the application form and any supporting information received with the application, except as may be amended by the details approved pursuant to the Deferred Commencement condition, and 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 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. The materials and colour of the roofing to the proposed additions are to be compatible with the existing roof structures.
4. 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.
5. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
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.
7. Street numbering must be provided to the premises in a prominent position, in accordance with Australia Post guidelines and AS/NZS 4819 (2003) to the

satisfaction of Council, prior to an occupation certificate being issued for the development.

8. The premises is to be used as a single residential dwelling only at all times and must not be used for dual or multi-occupancy purposes.
9. Fences / walls located on the side or rear boundaries of the premises shall not exceed a maximum height of 1800mm, measured above the existing ground levels.

On sloping sites or at changes in ground levels, the maximum height of the fence may exceed the abovementioned specified height by up to 150mm maximum adjacent to any required 'step-downs' or changes in ground level.

The applicant and owner are advised that the relevant provisions of the Dividing Fences Act 1991 are to be satisfied accordingly and any necessary approvals or agreements should be obtained from the owner/s of the adjoining land beforehand.

10. The proposed south-facing windows on the first (top) floor level (being W17, 18, 19, 21 and 22 as shown on the approved drawings), with the exception of the operable louvre windows, are to be constructed of obscured / translucent / frosted glazing. Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.
11. Louvred privacy screens of 1800mm in height, as measured from the finished floor level, are to be installed along the northern and southern elevations of the ground floor rear deck.

The louvres shall be angled and spaced in order to protect the privacy of the adjoining properties at Nos. 16 and 18 Melody Street.

Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.

12. Louvred privacy screens of 1800mm in height, as measured from the finished floor level, are to be installed along the northern and southern elevations of the first (top) floor rear deck. In addition, each of the screens is to be extended across the return to the western elevation by 500mm.

The louvres shall be angled and spaced in order to protect the privacy of the adjoining properties at Nos. 16 and 18 Melody Street.

Details demonstrating compliance with the above requirements are to be incorporated in the Construction Certificate documentation, to the satisfaction of the Principal Certifying Authority.

13. The proposed screening devices for the south-facing windows on the ground floor level (being W11, 12, 13 and 14 as shown on the approved plans) shall have the louvres angled and spaced in order to protect the privacy of the adjoining property at 18 Melody Street.

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

14. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

The following condition is applied to meet additional demands for public facilities:

15. 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
Development cost \$100,001 - \$200,000	-----	0.5%	-----
Development cost more than \$200,000	*\$392,927.27	1.0%	\$3,929.27

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 Plan 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 imposed to promote ecologically sustainable development and energy efficiency:

16. 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.
17. 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.

18. 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)

19. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

20. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

21. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

22. 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.

23. 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.

24. **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.

25. **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.

26. 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.

27. 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".

28. 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.

29. **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.

30. 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.

31. 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.

32. 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:

33. The demolition of buildings and 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.
34. 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 any asbestos materials 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.*

35. Any work involving the demolition, storage and disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- a. Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
 - b. Randwick City Council's Asbestos Policy (adopted 13 September 2005)
 - c. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² 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.
 - d. On sites involving the removal of asbestos, a 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.
 - e. 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.
 - f. A Clearance 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 and the principal certifying authority upon completion of the asbestos related works prior to an Occupation Certificate being issued, which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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.

36. 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.

37. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:

- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

38. 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
- effectively support the excavation and building; 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 and particulars of the works to the owner of the adjoining land.

Notes

- This consent and 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).

39. 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.

40. 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 person is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

41. 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.

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.

42. 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.

43. 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.**

44. 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 road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following condition has been applied to ensure the structural adequacy and integrity of the proposed building and adjacent premises:

45. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the

development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

46. Swimming pools are to be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and regulations.

The swimming pool is to be surrounded by a fence having a minimum height of 1.2m, that separates the pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with AS 1926-1986.

Gates to pool area shall be a maximum width of 1 metre, and be self-closing and latching; the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

A sign shall be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the document entitled "Policy Statement No.9.4.1: Guidelines for the Preparation of Posters on Resuscitation", published in 1985 by the Australian Resuscitation Council and the sign must bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council.

47. Swimming pools are to be designed, installed and operated in accordance with the following general requirements: -

- a. Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and
- b. All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
- c. Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2003: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
- d. Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents; and
- e. The pool 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:
 - i. before 8.00am or after 8.00pm on any Sunday or public holiday; or
 - ii. before 7.00am or after 8.00pm on any other day.

48. Written notification must be provided to Council advising of the installation and completion of the Swimming Pool (or Spa Pool), to satisfy the requirements of the *Swimming Pools Act 1992*, **prior to issuing an Occupation Certificate.**

Council's "Notification & Registration of a Swimming Pool" form must be completed and forwarded to Council prior to any Occupation Certificate being issued for the pool.

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:

49. 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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.

50. The installation of rainwater tanks 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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) 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) 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 condition is applied to ensure that no vibration nuisance will result from the proposed development:

51. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

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

52. 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.

53. The applicant is to meet all costs associated with reconstruction of the Right of

Way which is needed to provide satisfactory vehicle access along the Right of Way.

The following condition is applied to provide adequate consideration for service authority assets:

54. 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 landscaping and to maintain reasonable levels of environmental amenity:

55. That part of the nature-strip 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.
56. Landscaping at the site shall be installed in accordance with the Landscape Concept Plan by Anthony Wyer Landscape Design, drawing number A, job number 1024, revision 2, dated 30/10/07, prior to the issue of a final occupation certificate, and shall be maintained in accordance with these plans.

Tree Protection Measures

57. In order to ensure retention of the *Agonis flexuosa* (Willow Myrtle) street tree located on Council's Melody Street nature strip, to the north of the existing vehicle crossing in good health, the following measures are to be undertaken:
 - a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application must show retention of this existing street tree, with the position of its trunk and full diameter of its canopy clearly shown on all drawings.
 - b. The tree is to be physically protected by the installation of 1.8 metre high steel mesh/chainwire fencing which shall be located along the back of the kerb/on-street parking bay to its east, back of the pedestrian footpath to its west, as well a distance of 3.5 metres to its south and 3 metres to its north (measured off the outside edge of its trunk), in order to completely enclose this tree for the duration of the works.
 - c. This fencing shall be installed prior to the commencement of demolition and construction works and shall remain in place until all works are completed, to which signage containing the following words shall be clearly displayed and permanently attached: "TREE PROTECTION ZONE, DO NOT ENTER".
 - d. Within the zone specified in point 'b' above, 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.
 - e. The applicant is not authorised to perform any works to this tree, and shall contact Council's Landscape Development Officer on 9399-0613 should pruning or any similar such work appear necessary, with the applicant required to cover all associated costs with such work.

- f. A refundable deposit in the form of cash, cheque or bank guarantee (with no expiry date) for an amount of \$1000.00 shall also be paid at the Cashier on the Ground Floor of the Administrative Centre, **prior to a construction certificate being issued for the development**, in order to ensure compliance with the conditions listed in this consent, and ultimately, preservation of this street tree.

QUANTITY	SPECIES	AMOUNT
One	<i>Agonis flexuosa</i> (Willow Myrtle)	\$1000.00
	TOTAL	\$1000.00

The refundable deposit will be eligible for refund following the issue of a Final Occupation Certificate, subject to completion and submission of Council's 'Security Deposit Refund Application Form', and pending a satisfactory inspection by Council's Landscape Development Officer (9399-0613).

Any contravention of Council's conditions relating to this street tree at any time during the course of the works, or prior to the issue of a final occupation certificate, may result in Council claiming all or part of the lodged security in order to perform any rectification works necessary.

58. In order to also ensure retention of the *Eucalyptus robusta* (Swamp Mahogany) located centrally within the rear yard of the site in good health, the following measures are to be undertaken:
- a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of this specimen with the position of its trunk and full diameter of its canopy clearly shown on all drawings, with spot levels to confirm that other than for the installation/construction of the proposed structures, existing soil levels beneath the extent of its canopy will be maintained.
 - b. The construction certificate plans must also confirm compliance with one of the following options:
 - i) All parts of the pergola roof shall be setback a minimum distance of 2.5 metres from the outside edge of the trunk of this tree when measured a distance of 1 metre above ground level;
 - ii) The deck can be constructed as shown, but shall remain uncovered, with the pergola/roof structure to be completely deleted;
 - iii) An alternative, temporary structure (which does not have an eave, gutter or vertical wall alignment), such as shade sail or similar, can be provided in place of the roofed pergola, for the full extent of the deck.

NOTE: The above condition has been included as should construction proceed as shown, sub-clause 4.b.vi, of Council's Tree Preservation Order (TPO) would allow the applicant to remove this tree at any time, without obtaining any type of consent or approval from Council, due to its close proximity to the pergola upon completion, with the retention of

such native trees a priority for Council given their contribution to the environment.

- c. Prior to the issue of a construction certificate, a **Construction Management Plan (CMP)** shall be submitted to, and be approved by, the PCA (with a copy to be forwarded to Council if not the PCA prior to commencement), which shows that no site soil, spoil or any materials will be stored or stockpiled within 3.5 metres of the outside edge of its trunk for the duration of the proposed works, with details of the type of machinery to be used, and where it will be sited during the course of works, i.e.; in Melody Street, the Right of Way or within the rear yard, also to be shown to ensure sufficient room for access and manoeuvring.
- d. The trunk is to be physically protected by 2m lengths of 50mm x 100mm hardwood timbers, spaced at 150mm centres, and secured by 8 gauge wires or steel strapping at 300mm spacing, laid over geo-textile, underfelt or layers of Hessian, with woodchip mulch to a minimum depth of **75mm** to be provided at ground level for **a radius of 3.5 metres** off the outside edge of its trunk.
- e. The measures described in point 'd' above, shall be provided **prior to the commencement of any site works**, and shall be maintained until such time as the turf is being laid in the rear yard, with Council's Landscape Development Officer to be contacted on 9399-0613 to arrange a site inspection to confirm implementation.
- f. Any excavations associated with the length of the eastern edge of the proposed pool, as well as the masonry fence proposed along the southern boundary and footings for the rear deck, within a distance of 4 metres from its trunk, must initially be undertaken by hand (to a minimum depth of 600mm), with any roots having a diameter of less than 75mm to be cut cleanly by hand, and the affected area backfilled with clean site soil as soon as possibly possible.
- g. **Prior to the pruning of any roots as described above, and prior to the pouring of any footings/structures in the three subject areas, Council's Landscape Development Officer MUST be contacted on 9399-0613, giving at least two week days notice** to arrange an inspection of the trenches and any roots encountered, with those roots having a diameter of 75mm or more to be retained, and any re-designs undertaken to ensure their preservation.

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 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.

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) this matter be deferred to the next available meeting to allow the applicant and objector to resolve the problems with vehicular access and the length of the setback at the rear portion of the building. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Hughes	Councillor Andrews
Councillor Matson	Councillor Bastic
	Councillor Belleli
	Councillor Daley
	Councillor Kenny
	Councillor Nash
	Councillor Notley-Smith
	Councillor Procopiadis
	Councillor Seng
	Councillor Sullivan
	Councillor Tracey
	Councillor White
	Councillor Woodsmith
	Total (13)

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

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Matson
Councillor Bastic	Councillor Tracey
Councillor Belleli	
Councillor Daley	
Councillor Hughes	
Councillor Kenny	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Sullivan	
Councillor White	
Councillor Woodsmith	
Total (13)	Total (2)

CP42/08 Director City Planning Report - 253 Bunnerong Road, Maroubra (da/449/2008)

255/08

RESOLUTION: (Kenny/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/449/2008 for permission to carry out alterations & additions to an existing dwelling including a new first floor and the demolition of an existing fibro garage and the construction of a new laundry/store room to rear of the dwelling as an outbuilding for 253 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 plan numbered A08/562 dated June, 08 and received by Council on 11 August 2008, 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. A second car space in the form of a stacked parking arrangement is to be made available as the proposal generates two car parking spaces.
3. 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.

4. The external materials, colours and finishes of the building are required to match, as closely as possible, the existing building.
5. The design, materials and colour of the roofing to the proposed building/s are required to match, as closely as possible, the existing roof.
6. 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.
7. The external walls of the dwelling must be located not less than 900mm from the boundary.
8. Eaves, gutters, hoods and similar structures or attachments are required to be setback from the side boundaries of the allotment a minimum distance of 500mm and details of compliance are to be included in the construction certificate details.
9. There must be no encroachment of the structure/s onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
10. 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 is imposed to satisfy relevant requirements of the Sydney Water Corporation.

11. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

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

12. 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
Development cost \$100,001 - \$200,000	\$130,000	0.5%	\$650
Development Cost More than \$200,000	N/A	1.0%	N/A

The levy must be paid in cash, bank cheque or by credit card prior to

- a) a construction certificate being issued
- b) a subdivision 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 imposed to promote ecologically sustainable development and energy efficiency.

13. 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.
14. 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.

15. 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)
16. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

17. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

18. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

19. 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.

20. 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*.

21. **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.

22. **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.

23. 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.

24. 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".
25. 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.

26. **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.

27. 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.

28. 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.

29. 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:

30. 32. The demolition of buildings and 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.

31. 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 any asbestos materials 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.

32. Any work involving the demolition, storage and disposal of asbestos products and materials must be carried out in accordance with the following requirements:

- a. Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
- b. Randwick City Council's Asbestos Policy (adopted 13 September 2005)
- c. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² 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.
- d. On sites involving the removal of asbestos, a 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.
- e. 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.
- f. A Clearance 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 and the principal certifying authority upon completion of the asbestos related works prior to an Occupation Certificate being issued, which confirms that the

asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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.

33. 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.

34. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:

- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
- as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

35. 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
- effectively support the excavation and building; 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 and particulars of

the works to the owner of the adjoining land.

Notes

- This consent and 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).

36. 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.

37. 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 person is to be implemented during the works, to the satisfaction of the Principal Certifying Authority.

38. 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.

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.

39. 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.

40. 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**.

41. 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 road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

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

42. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

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:

43. 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.

44. The installation of rainwater tanks 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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) 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) 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 have been applied to ensure that adequate security provisions are made for vehicular access, parking and public infrastructure:

45. The applicant must meet the full cost for Council or a Council approved contractor to install vehicular crossings and 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 gradient of the internal access driveway must be designed and constructed in accordance with AS 2890.1 (2004) – Off Street Car Parking and the levels of the driveway must match the alignment levels at the property boundary (as specified by Council). Details of compliance are to be included in the

construction certificate.

The height of the building must not be increased to satisfy the required driveway gradients.

47. A *Road / Asset Opening Permit* must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the *Roads Act 1993* and all of the conditions and requirements contained in the *Road / Asset Opening Permit* must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

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 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.

MOTION: (Kenny/Andrews) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP43/08 Director City Planning Report - 9 Lurline Street, Maroubra (DA/956/2007)

256/08

RESOLUTION: (Woodsmith/Bastic) that this matter be deferred for one month to allow the objectors to view the amended plans and the application then to be determined by council staff under delegated authority.

MOTION: (Woodsmith/Matson) that this matter be deferred to the next available meeting to allow the objectors to view the amended plans. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Belleli	Councillor Andrews
Councillor Hughes	Councillor Bastic
Councillor Kenny	Councillor Daley

Councillor Matson	Councillor Notley-Smith
Councillor Nash	Councillor Procopiadis
Councillor Seng	Councillor Sullivan
Councillor Woodsmith	Councillor Tracey
	Councillor White
Total (7)	Total (8)

AMENDMENT: (Tracey/Procopiadis) that this matter be deferred for mediation between the applicant and objectors and the application be delegated for determination by council staff. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Procopiadis	Councillor Andrews
Councillor Tracey	Councillor Bastic
	Councillor Belleli
	Councillor Daley
	Councillor Hughes
	Councillor Kenny
	Councillor Matson
	Councillor Nash
	Councillor Notley-Smith
	Councillor Seng
	Councillor Sullivan
	Councillor White
	Councillor Woodsmith
Total (2)	Total (13)

MOTION: (Woodsmith/Bastic) CARRIED UNANIMOUSLY – SEE RESOLUTION.

**CP44/08 Director City Planning Report - 26 Franklin Street, Matraville
(DA/198/2008)**

257/08

RESOLUTION: (White/Nash)

- A.** That the Council support the objection under State Environmental Planning Policy No.1 (SEPP No.1) in respect to non-compliance with Clauses 32 & 33 of the Randwick Local Environmental Plan 1998, relating to Floor Space Ratio and External Wall height on the grounds that the proposal complies with the objectives of the clauses and that the Department of Urban Affairs and Planning be advised accordingly.
- B** 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.198/08 for permission to demolish the existing building and outbuildings and erect a new two storey attached dual occupancy and in ground swimming pool at for 26 Franklin Street, Matraville 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 DA07/05/24, 2-4, dated July 2008 and received by Council on the 25 July 2008, 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 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. There must be no encroachment of the front fence onto Council's road reserve, footway or public place, unless written permission has been obtained from the Council beforehand.
4. Street numbering must be provided to the premises in a prominent position, to the satisfaction of Council.
5. The finished ground levels external to the building are to be consistent with the development consent and are not to be raised (other than for the provision of approved paving or the like on the ground) without the written consent of Council.
6. Lighting to the premises shall be designed so as not to cause a nuisance to nearby residents.
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. To maintain privacy to the adjoining dwellings a 1800mm high privacy screen of obscured glazing is to be installed at each side and to the full depth of the decks at the rear of the building, and the fixed louvre privacy screen to the western side entry is to be increased in height to 1800mm.
9. To reduce the impact of the hard surfaces of the driveways upon the streetscape the width of each driveway are to be reduced to a maximum of 3m at the property boundary and tapered to the garage entrance, the width of the landscape strip planting is to be increased to be at the new edge of the driveways.
10. To maintain privacy within the adjoining dwelling at 24 Franklin Street, the privacy screen to the entry podium in the western elevation of the building is to be increased in length to extend beyond a 45 degree angle from the plane of the wall containing the window openings within the front portion of that building.

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

11. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

The following condition is applied to meet additional demands for public facilities;

12. 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
Development Cost More than \$200,000	\$ 400 000	1.0%	\$ 4 000.00

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 imposed to promote ecologically sustainable development and energy efficiency.

13. 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.
14. 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.

15. 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)

16. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

17. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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

18. 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.

19. 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*.

20. **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.

21. **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.

22. 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.

23. 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".
24. 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.

25. **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.

26. 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.

27. 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.

28. 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:

29. The demolition of buildings and 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.

30. 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 any asbestos materials 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.

31. Any work involving the demolition, storage and disposal of asbestos products and materials must be carried out in accordance with the following requirements:
- a. Relevant Occupational Health & Safety legislation and WorkCover NSW requirements
 - b. Randwick City Council's Asbestos Policy (adopted 13 September 2005)
 - c. A WorkCover licensed demolition or asbestos removal contractor must undertake removal of more than 10m² 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.
 - d. On sites involving the removal of asbestos, a 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.
 - e. 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.
 - f. A Clearance 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 and the Principal certifying authority upon completion of the asbestos related works which confirms that the asbestos material have been removed appropriately and the relevant conditions of consent have been satisfied.

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.

32. 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.

33. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:
- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

34. 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
- effectively support the excavation and building; 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 and particulars of the works to the owner of the adjoining land.

Notes

- *This consent and 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).*

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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**. 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.

42. 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 5 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. 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.

- c. 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.
- d. 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.
- e. 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.
- f. Any part of Council's road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

The following conditions are applied to ensure compliance with the Swimming Pools Act 1992 and to maintain public safety and amenity:

43. Swimming pools are to be provided with childproof fences and self-locking gates, in accordance with the *Swimming Pools Act 1992* and regulations.

The swimming pool is to be surrounded by a fence having a minimum height of 1.2m, that separates the pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises; and that is designed, constructed and installed in accordance with AS 1926-1986.

Gates to pool area shall be a maximum width of 1 metre, and be self-closing and latching; the gate is required to open outwards from the pool area and prevent a small child opening the gate or door when the gate or door is closed.

Temporary pool safety fencing is to be provided pending the completion of all building work and the pool must not be filled until a fencing inspection has been carried out and approved by the principal certifying authority.

A sign shall be erected in a prominent position in the immediate vicinity of the swimming pool, in accordance with the document entitled "Policy Statement No.9.4.1: Guidelines for the Preparation of Posters on Resuscitation", published in 1985 by the Australian Resuscitation Council and the sign must bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in accordance with the document entitled "Cardio Pulmonary Resuscitation" published by the Australian Resuscitation Council.

44. Swimming pools are to be designed, installed and operated in accordance with the following general requirements: -
 - a. Backwash of the pool filter and other discharge of water is to be drained to the sewer in accordance with the requirements of the Sydney Water Corporation; and

- b. All pool overflow water is to be drained away from the building and adjoining premises, so as not to result in a nuisance or damage to premises; and
 - c. Water recirculation and filtrations systems are required to comply with AS 1926.3 – 2003: Swimming Pool Safety – Water Recirculation and Filtration Systems; and
 - d. Pool plant and equipment is to be enclosed in a sound absorbing enclosure or installed within a building, to minimise noise emissions and possible nuisance to nearby residents; and
 - e. The pool 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:
 - i. before 8.00am or after 8.00pm on any Sunday or public holiday; or
 - ii. before 7.00am or after 8.00pm on any other day.
45. Written notification must be provided to Council advising of the installation and completion of the Swimming Pool (or Spa Pool), to satisfy the requirements of the *Swimming Pools Act 1992*, **prior to issuing an Occupation Certificate.**

Council's "Notification & Registration of a Swimming Pool" form must be completed and forwarded to Council prior to any Occupation Certificate being issued for the pool.

46. 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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.

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:

47. 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.
48. 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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.

49. The installation of rainwater tanks 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 $L_{Aeq, 15 \text{ min}}$ sound pressure level at any affected premises that exceeds the background $L_{A90, 15 \text{ min}}$ 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) 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) 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 adequate provisions are made for the management of waste from the development:

50. Adequate provisions are to be made within the premises for the storage and removal of waste and recyclable materials, to the satisfaction of Council and details are to be included in the construction certificate documentation.
51. A demolition and construction Waste Management Plan (WMP) must be developed and implemented for the development, to the satisfaction of Council, **prior to the commencement of works**.

The Waste Management Plan must provide details of the type and quantities of demolition and construction waste materials, proposed re-use and recycling of materials, methods of disposal and details of recycling outlets and land fill sites.

Where practicable waste materials must be re-used or recycled, rather than disposed and further details of Council's requirements including relevant guidelines and pro-forma WMP forms can be obtained from Council's Customer Service Centre or by telephoning Council on 9399 0999.

Details and receipts verifying the recycling and disposal of materials must be kept on site at all times and presented to Council officers upon request.

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 a concrete vehicular crossings and laybacks at kerb opposite the vehicular entrances to the site.
 - a) 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.
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 match the back of the existing footpath along the full site frontage.
57. 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.

58. The above alignment levels and the site inspection by Council's Development Engineering Section have been issued at a prescribed fee of \$681.00 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:

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.
61. A Road / Asset Opening Permit must be obtained from Council prior to carrying out any works within or upon a road, footpath, nature strip or in any public place, in accordance with section 138 of the Roads Act 1993 and all of the conditions and requirements contained in the Road / Asset Opening Permit must be complied with.

The owner/builder must ensure that all works within or upon the road reserve, footpath, nature strip or other public place are completed to the satisfaction of Council, prior to the issuing of a final occupation certificate for the development.

For further information, please contact Council's Road / Asset Opening Officer on 9399 0691 or 9399 0999.

62. 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:

63. **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 issued, 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 (i.e.. 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.
64. 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.
65. As the subject development site falls away from Franklin Street, all site stormwater must be discharged 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.

66. 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.

67. 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.

68. 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.

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

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

- b) 150mm in uncovered carparking areas (with an isolated maximum depth of 200mm permissible at the low point pit within the detention area).
- c) 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)
- d) 600mm in landscaped areas where the side slopes of the detention area

have a maximum grade of 1 in 10.

- e) 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.

71. 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.

72. 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).

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

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

75. 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.

76. 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.

77. 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.
 - a. The linen plans shall indicate the location and dimensions of the detention/infiltration areas.
 - b. 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.
78. 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:
- c) The location of the detention basin with finished surface levels;
 - d) Finished site contours at 0.2 metre intervals;
 - e) Volume of storage available in the detention areas;
 - f) The location, diameter, gradient and material (i.e. PVC, RC etc) of all stormwater pipes;
 - g) The orifice size(s) (if applicable);
 - h) Details of any infiltration/absorption systems; and
 - i) Details of any pumping systems installed (including wet well volumes).
79. 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:

80. 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 dual occupancy

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

81. 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.**
82. 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.
83. 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.
84. 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.

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 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 or any other container or article.

- 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: (Hughes/Matson) that this application be refused due to its excessive height exceedance which will have a detrimental impact on the solar access and visual amenity of the neighbouring property, the excessive bulk of the garage frontage, the

excessive visual impact on the streetscape and the excessive overall bulk and scale of the development. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Hughes	Councillor Andrews
Councillor Kenny	Councillor Bastic
Councillor Matson	Councillor Belleli
Councillor Woodsmith	Councillor Daley
	Councillor Nash
	Councillor Notley-Smith
	Councillor Procopiadis
	Councillor Seng
	Councillor Sullivan
	Councillor Tracey
	Councillor White
Total (4)	Total (11)

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

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Kenny
Councillor Bastic	Councillor Matson
Councillor Belleli	Councillor Woodsmith
Councillor Daley	
Councillor Hughes	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Sullivan	
Councillor Tracey	
Councillor White	
Total (12)	Total (3)

Note: The Mayor referred comments made by Cr Hughes concerning the determination of the conditions of this development consent to the General Manager for further investigation.

**CP45/08 Director City Planning Report - 47-49 Bream Street, Coogee
(DA/430/2008)**

258/08

RESOLUTION: (Sullivan/Bastic)

That Council under delegated authority from the General Manager, 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/430/2008 for permission to carryout alterations and additions to the dwellings at 47 & 49 Bream Street, Coogee 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 27/08, dated 18/6/08 and received by Council on the 20th June 2008, 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 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. A Construction Certificate for Development Consent No.430/2008 must not be issued by Council or the Certifying Authority unless that Construction Certificate incorporates the entirety of the works approved on both 47 & 49 Bream St Coogee.

Reason:

Council is of the opinion that approval of DA 430/2008 is warranted only in circumstances where both semi-detached dwellings, known as Nos. 47 & 49 Bream Street, Coogee are constructed concurrently. The condition is imposed to prevent the owners 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.

4. An Occupation Certificate must not be issued for one of the first floor additions prior to the adjoining first floor addition 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.

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

5. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works.**

The following condition is applied to meet additional demands for public facilities;

6. 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
Development Cost More than \$200,000	\$ 400 000	1.0%	\$ 4 000.00

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 imposed to promote ecologically sustainable development and energy efficiency.

7. 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.
8. 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.

9. 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)
10. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of health and amenity in the locality:

11. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

12. External paths and ground surfaces are to be constructed at appropriate levels and be graded and drained away from the building and adjoining premises, so as not to result in the entry of water into the building, or cause a nuisance or damage to the adjoining premises.

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 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.

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*; and
 - 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 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. The demolition of buildings and 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.
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.
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 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.

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.

28. 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.

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.

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**.

30. 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 road, footway or nature strip which is damaged as

a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

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

31. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

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

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. Prior to the issuing of a final occupation certificate the applicant must meet the full cost for Council or a Council approved contractor to construct concrete vehicular crossing and layback at kerb opposite the vehicular entrance to the site.
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 consideration for service authority assets:

35. 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.
36. 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.

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

37. The Council's Development Engineer has inspected the above site and has determined that the design alignment level at (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.

38. 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.
39. 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 provisions for landscaping and to maintain reasonable levels of environmental amenity:

40. That part of the nature-strip 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.

Tree Management

41. Approval is granted for removal of the following trees as part of this application, with replacements not required given a lack of available space:
 - a. Two separate jacaranda mimosifolia (jacaranda's) in the rear yard, comprising one each in both the northwest and northeast corner of the site, as despite being sited away from the proposed works, are in poor condition, and display excessive leans to the north, towards neighbouring structures, and is a result of overcrowding and competition for light.

The approval provided above is subject to the largest, most dominant jacaranda along the eastern boundary being retained (refer tree protection measures at the end of this report).

Street Tree Management

42. In order to accommodate construction of the vehicle crossing and internal hardstand for 47 Bream Street, which was approved at the Ordinary Council Meeting of 26th August 2008, approval is also granted for removal of the existing *Lophostemon confertus* (Brush Box) street tree on Council's nature strip in front of 47 Bream Street.

The applicant will be required to cover all of Council's costs associated with this, and must contact Council's Landscape Development Officer on 9399-0613, **giving a minimum of 4 weeks notice**, to arrange for its removal prior to the commencement of ANY site works.

The amount specified to the applicant must be paid into **Tree Amenity Income account no 4001.768401** at the Cashier on the Ground Floor of the Administrative Centre, **prior to a construction certificate being issued for the development.**

Tree Protection Measures

43. In order to also ensure retention of the *Jacaranda mimosifolia* (Jacaranda) located in the rear yard, along the eastern boundary, towards the northeast corner of the site in good health, the following measures are to be undertaken:

- a. All detailed architectural, building, demolition, engineering (structural, stormwater & drainage, services), and landscape documentation submitted for the construction certificate application shall show the retention of this specimen with the position of its trunk and full diameter of its canopy clearly shown on all drawings.
- b. There is to be no storage of materials, machinery or site office/sheds, nor is cement to be mixed or chemicals spilt/disposed of and no stockpiling of soil or rubble beneath the extent of the dripline of this tree.

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.

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 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.

- 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: (Sullivan/Bastic) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Kenny
Councillor Bastic	Councillor Matson
Councillor Belleli	Councillor Woodsmith
Councillor Daley	
Councillor Hughes	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Sullivan	
Councillor Tracey	

Councillor White
Total (12)

Total (3)

**CP46/08 Director City Planning Report - 61 Milroy Avenue, Kensington
(DA/141/2007/A)**

Cr Sullivan declared a non pecuniary interest in this matter and left the chamber, taking no part in discussion or voting on the matter.

259/08

RESOLUTION: (Procopiadis/Bastic)

That 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 DA/141/2007 to allow use of the out door area at the corner of Milroy Avenue and Lenthall Street as an outdoor play area and to allow for food preparation on site at 61 Milroy Avenue, Kensington in the following manner:

A. Amend Condition No. 1 to read:

1. The development must be implemented substantially in accordance with the plans numbered DA3.2b & DA3.3a, dated 8/10/07 & 24/09/07 respectively, and received by Council on 15 January 2008, the application form and on any supporting information received with the application, except as amended by **the Section 96 "A" application received by Council on the 18 February 2008** except as may be amended by the following conditions and as may be shown in red on the attached plans,

B. Delete Conditions No. 12

C. Add the following conditions:

51. Prior to the front outdoor area being used as a playground a new 1.5 metre high, or alterations to the existing picket fence to achieve 1.5 metres, boundary fence shall be constructed adjacent to the front play area with the corner panel of the boundary fence, (i.e. panel at the corner of Lenthall Street and Milroy Avenue), together with panels on either side of the corner panel including the entire length of the Lenthall Street frontage, the site being suitably strengthened / reinforced, (refer to page 2 of the Risk Assessment prepared by Jamieson Foley Engineers dated 7/5/08). The reinforced fencing shall be designed by a suitably qualified engineer who shall, at the completion of the works, certify that the fencing has been installed in accordance with the design specification.

Details of the new picket fence, including details of the proposed strengthening/reinforcing must be submitted to and approved by Council's Director City Planning prior to the Construction Certificate being issued on the proposed development.

52. Should the Department of Community Services require a change to the height of fencing to the subject outdoor play area following their inspection, a further application shall be made to Council to modify the consent.

The following conditions are applied to ensure compliance with the Food Act 2003 and to ensure public health and safety:

53. The premises is to be designed, constructed and operated in accordance with the Food Act 2003, Food Regulation 2004, Australia & New Zealand Food Standards Code and Australian Standard AS 4674-2004, Design, construction and fit-out of food premises and details of compliance are to be included in the

documentation for the **construction certificate** to the satisfaction of the certifying authority.

54. Food safety practices and operation of the food premises must be in accordance with the *Food Act 2003*, Food Regulation 2004, *Food Standards Code* and Food Safety Standards at all times, including the requirements and provisions relating to:

- Food handling – skills, knowledge and controls.
- Health and hygiene requirements.
- Requirements for food handlers and businesses.
- Cleaning, sanitising and maintenance.
- Design and construction of food premises, fixtures, fitting and equipment.

A failure to comply with the relevant food safety requirements is an offence and may result in legal proceedings, service of notices and/or the issuing of on-the-spot penalty infringement notices.

55. The food premises must be registered with Council's Environmental Health section and the NSW Food Authority must also be notified of the food business in accordance with the Food Safety Standards, **prior to commencement of food business operations**.

56. Upon completion of the work and **prior to the issuing of an occupation certificate**, the premises must be inspected by Council's Environmental Health Officer to ascertain compliance with relevant Food Safety Standards and the written approval of Council (being the relevant Food Authority for this food business) must be obtained prior to the operation of the food business.

57. The Proprietor of the food business and all staff carrying out food handling and food storage activities must have appropriate skills and knowledge in food safety and food hygiene matters, as required by the Food Safety Standards.

58. The design and construction of food premises must comply with the following requirements, as applicable:-

- The floors of kitchens, food preparation areas and the like are to be constructed of materials which are impervious, non slip and non abrasive. The floor is to be finished to a smooth even surface, graded and drained to a floor waste connected to the sewer.
- The intersection of walls with floor and plinths is to be coved, to facilitate cleaning.
- Walls of the kitchen preparation areas and the like are to be of suitable construction finished in a light colour with glazed tiles, stainless steel, laminated plastics or similar approved material adhered directly to the wall adjacent to cooking and food preparation facilities or areas, to provide a smooth even surface.
- The glazed tiling or other approved material is to extend up to the underside of any mechanical exhaust ventilation hoods and a minimum of 450mm above bench tops or other facilities and equipment.
- Walls where not tiled are to be cement rendered or be of rigid smooth faced non-absorbent material (i.e. fibrous cement sheeting, plasterboard or other approved material) and finished to a smooth even surface, painted with a washable paint of a light colour or sealed with

other approved materials.

- The ceilings of kitchens, food preparation areas, storerooms and the like are to be of rigid smooth-faced, non absorbent material i.e., fibrous plaster, plasterboard, fibre cement sheet, cement render or other approved material.
 - All stoves, refrigerators, bain-maries, stock pots, washing machines, hot water heaters, large scales, food mixers, food warmers, cupboards, counters, bars etc.... to be supported on wheels, concrete plinths a minimum 75mm in height, metal legs minimum 150mm in height, brackets or approved metal framework of the like.
 - Cupboards, cabinets, benches and shelving may be glass, metal, plastic, timber sheeting or other approved material. The use of particleboard or similar material is not permitted unless laminated on all surfaces.
 - Adequate fly screens and doors with self-closing devices, (where applicable), are to be provided to all external door and window openings. An electronic insect control device must also be provided within the food premises.
 - Garbage storage enclosures are to be fitted with a hose cock and the floor is to be graded and drained to an approved floor waste connected to the sewer.
 - A mechanical ventilation exhaust system hood is to be installed where cooking or heating processes are carried out in the kitchen or in food preparation areas, in accordance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2.
 - A separate wash hand basins must be provided in the kitchen/preparations area, in a convenient position, with hot and cold water, together with a sufficient supply of soap and disposable hand towels. Such hot and cold water shall be supplied to the wash hand basins through an approved mixing device.
 - Ceramic tiles being provided to a height of 450mm above bench tops, wash hand basin, cleaning sinks and similar fittings.
 - A numerically scaled indicating thermometer or recording thermometer, accurate to the nearest degree Celsius being provided to refrigerators, cool rooms, other cooling appliances and Bain maries or other heated food storage/display appliances. The thermometer is to be located so as to be read easily from the outside of the appliance.
 - All food that is to be kept hot should be heated within one (1) hour from the time when it was prepared or was last kept cold, to a temperature of not less than 60°C and keep this food hot at or above the temperature. Food that is to be kept cold should be cooled, within four (4) hours from the time when it was prepared or was last kept hot, to a temperature of not more that 5°C and keep this food cold at or below that temperature.
59. Details of proposed mechanical ventilation systems, detailing compliance with the relevant requirements of Clause F4.12 of the BCA and Australian Standard AS 1668 Parts 1 & 2 (including exhaust air quantities and discharge location

points) are to be submitted to and approved by the Certifying Authority with the construction certificate and a copy of relevant documentation is to be provided to Council.

60. A certificate or statement must be provided to the certifying authority and the Council, from a suitably qualified person, prior to occupation, which confirms that the mechanical ventilation system satisfies the relevant requirements of the Building Code of Australia and Australian Standards AS 1668 Parts 1 & 2.
61. Liquid trade waste materials are to be disposed of in accordance with the requirements of the Sydney Water, Trade Waste Department and details of compliance are to be submitted to the certifying authority **prior to the commencement of works.**
62. Trade/commercial waste materials must not be disposed via council's domestic garbage service. All trade/commercial waste materials must be collected by Council's Trade Waste Service or a waste contractor authorised by the Waste Service of New South Wales and details of the proposed waste collection and disposal service are to be submitted to Council prior to occupation of the building.
63. Adequate provisions are to be made within the premises for the storage, collection and disposal of trade/commercial waste and recyclable materials, to the satisfaction of Council.

MOTION: (Procopiadis/Bastic) CARRIED UNANIMOUSLY - SEE RESOLUTION.

**CP47/08 Director City Planning Report - 286 Rainbow Street, Coogee
(DA/246/2008)**

260/08

RESOLUTION: (Nash/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/246/2008 for permission to *construct a first floor extension to the existing semi-detached dwelling* for 286 Rainbow Street, COOGEE subject to the following conditions: -

1. The development must be implemented substantially in accordance with the plans numbered 1 of 4 to 4 of 4, dated 19/02/08 and received by Council on 14 April 2008, 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 proposed building works are to be consistent with the submitted Schedule of Finishes prepared by Addbuild Additions and received by Council on 14 April 2008.

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

3. 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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works**.

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

4. 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.
5. 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.

6. 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)
7. 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 group of conditions have been applied to ensure that adequate drainage is provided from the premises and to maintain adequate levels of

health and amenity in the locality:

8. Surface water/stormwater must be drained and discharged to the street gutter or suitably designed absorption pit, to the satisfaction of the Certifying Authority and details are to be included in the construction certificate application for the development.

Absorption pits must be located not less than 3m from any adjoining premises and the stormwater must not be directed or flow onto any adjoining premises or cause a nuisance.

Details of any works proposed to be carried out in or on a public road/footway are to be submitted to and approved by Council prior to commencement of works.

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 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*.

11. **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.

12. **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.

13. 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.

14. 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".
15. 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.

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 and must also be provided to Council with the occupation certificate.

17. 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.

18. 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.

19. 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:

20. The demolition of buildings and 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.

21. 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 any asbestos materials 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.

22. 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.

23. A dilapidation report prepared by a professional engineer, accredited building surveyor or other suitably qualified person must be submitted to the satisfaction of the Principal Certifying Authority **prior to commencement** of any demolition, excavation or building works, in the following cases:
- new dwellings or additions to dwellings sited up to the property boundaries (including additions to a semi-detached dwelling),
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are proposed to be located within the zone of influence of the footings of any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - excavations for new dwellings, additions to dwellings, swimming pools or the like which are within rock and may result in vibration and or potential damage to any dwelling, associated garage or other substantial structure located upon an adjoining premises,
 - as otherwise required by the Principal Certifying Authority.

The report (including photographs) is to detail the current condition and status of any dwelling, associated garage or other substantial structure located upon the adjoining premises, which may be affected by the subject works.

24. 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
- effectively support the excavation and building; 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 and particulars of the works to the owner of the adjoining land.

Notes

- This consent and 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).

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.
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 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.

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.

28. 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.**

29. 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 road, footway or nature strip which is damaged as a result of the work must be repaired or replaced to Council's satisfaction prior to occupation or finalisation of the development.

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

30. Certificate of Adequacy supplied by a *professional engineer* shall be submitted to the certifying authority (*and the Council, if the Council is not the certifying authority*) **prior to a construction certificate being issued** for the development, certifying the structural adequacy of the existing structure to support the additional storey/upper floor addition.

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 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.

MOTION: (Nash/White) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Tracey
Councillor Bastic	Councillor Woodsmith
Councillor Belleli	
Councillor Daley	
Councillor Hughes	
Councillor Kenny	
Councillor Matson	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Sullivan	
Councillor White	
Total (13)	Total (2)

Note: The reasons for approving the application are that the development is not excessive in bulk or scale, it is compatible with the existing character of the locality, there are minimal adverse effects on neighbours in the street and it complies with other controls in the development DCP.

CP48/08 Director City Planning Report - 10 Ivy Street, Randwick (DA/818/2007)

261/08

RESOLUTION: (Tracey/Andrews)

That 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/818/07/A for 10 Ivy Street Randwick in the following manner:

A. Condition No 1 be altered to read as follows;

The development must be implemented substantially in accordance with the plans numbered 07/005/A3-003 & 07/005/A3-004, dated September 2007 and received by Council on the 28th September 2007, the application form and on any supporting information received with the application, as amended by the Section 96 application received by Council on the 10th June 2008, **only in so far as they relate to the modifications detailed in the Section 96 application**, except as may be amended by the following conditions and as may be shown in red on the attached plans.

B. Condition No. 3 be deleted from the development consent.

C. Condition No. 4 be deleted from the development consent.

MOTION: (Tracey/Andrews) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Seng
Councillor Bastic	
Councillor Belleli	
Councillor Daley	
Councillor Hughes	
Councillor Kenny	
Councillor Matson	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Sullivan	
Councillor Tracey	
Councillor White	
Councillor Woodsmith	
Total (14)	Total (1)

CP49 /08 Director City Planning Report - 8-10 Belmore Road Randwick (DA/373/2008)

262/08

RESOLUTION: (Kenny/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/373/2008 for permission to fit out and use the existing vacant commercial tenancy for the purposes of Thai Therapeutic massage at 8-10 Belmore Road 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 floor plan and sign detail numbered DA1.01 Revision B, received by Council on

the 28th July 2008, 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 operation of the premises is restricted to therapeutic massage only. The premises must not to be used for the purpose of offering any sexual services, including "body to body" massage.
3. The maximum number of employees operating from the subject premises is restricted to 3, and their relevant remedial and therapeutic massage qualifications are to be submitted to and approved by Council's Director City Planning prior to the commencement of the use. Council will keep a record of the employees and their relevant qualifications, and at no time are the employees to vary without the approval of Council's Director City Planning.
4. The hours of operation of the business are restricted to **9.00am to 9.00pm** seven days a week.
5. The under awning sign is to be a minimum of 2.6m above footpath level.
6. The upper level is restricted to staff room and staff amenities and is not to be used or converted for any other purpose.

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 must ensure that a Quick Check Agent/Sydney Water has appropriately stamped the plans **before commencing any works.**

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 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*.

10. **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.

11. **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.

12. 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.

13. 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".
14. 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.

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 and must also be provided to Council with the occupation 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:

16. The demolition of buildings and 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.
17. 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.

18. 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.
19. 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.

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.

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:

20. 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 (L_{A90}), 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 $L_{Aeq, 15 \text{ min}}$ and adjusted in accordance with the NSW Environmental Protection Authority's Industrial Noise Policy 2000 and Environmental Noise Control Manual (sleep disturbance).

21. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises.

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:

22. The use and operation of the premises shall not give rise to an environmental health or public nuisance.
23. There are to be no emissions or discharges from the premises which give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations.
24. The operation of the premises is to be restricted to remedial therapy in the form of Thai massage/reflexology/foot massage.
25. The premises is not to be used for the purpose of a brothel and in this regard, no sexual services are to be offered in association with the massage usage.
26. The premises is not to be used for the purpose of skin penetration procedures as defined in the *Public Health Act 1991 & Public Health (Skin Penetration) Regulations 2002*.

27. Provide a handwash basin within a common area which is accessible by staff at all times. The hand wash basin must have a supply of soap & disposable hand towels at all times.
28. All wash hand basins and cleaning sink/s must have:
- a supply of hot and cold water from a mixing valve,
 - ceramic tiles provided to a height of 450mm above the wash hand basins and cleaning sink.

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 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.

MOTION: (Andrews/Matson) that approval be granted subject to the hours of operation being reduced to 8.00pm and a twelve (12) month trial period. **LOST.**

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Andrews	Councillor Bastic
	Councillor Belleli
	Councillor Daley
	Councillor Hughes
	Councillor Kenny
	Councillor Matson
	Councillor Nash
	Councillor Notley-Smith
	Councillor Procopiadis
	Councillor Seng
	Councillor Sullivan
	Councillor Tracey
	Councillor White
	Councillor Woodsmith
Total (1)	Total (14)

MOTION: (Kenny/White) CARRIED - SEE RESOLUTION.

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST

were as follows:

FOR	AGAINST
Councillor Bastic	Councillor Andrews
Councillor Belleli	
Councillor Daley	
Councillor Hughes	
Councillor Kenny	
Councillor Matson	
Councillor Nash	
Councillor Notley-Smith	
Councillor Procopiadis	
Councillor Seng	
Councillor Sullivan	
Councillor Tracey	
Councillor White	
Councillor Woodsmith	
Total (14)	Total (1)

CP50/08 Director City Planning Report - Affordable Housing Program: A Progress Report (F2004/07952)

263/08 **RESOLUTION: (Kenny/Andrews)** that Council note the achievements as a result of the support it has given over the years in addressing affordable housing issues in Randwick City.

MOTION: (Kenny/Andrews) CARRIED UNANIMOUSLY - SEE RESOLUTION.

General Manager's Reports

GM31/08 General Manager's Report - Affixing of the Council Seal (F2004/06336)

264/08 **RESOLUTION: (Andrews/Procopiadis)** that the Council's Seal be affixed to the signing of agreements between Council and:

1. Jeremy Lavis (T/As Globe Café) in relation to a licence for the purpose of outdoor dining at 203 Coogee Bay Road, Coogee.
2. Christopher Warhurst (T/As Beach Palace Hotel) in relation to a licence for the purpose of outdoor dining at 169 Dolphin Street, Coogee.
3. A residential tenant in relation to a residential lease at 6/20 Silver Street, Randwick.

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

GM32/08 General Manager's Report - Randwick City Council June 2008 Quarterly Report (F2007/00140)

265/08 **RESOLUTION: (Andrews/Nash)** that the information contained in the June 2008 Quarterly Review of the 2007-11 Management Plan be received and noted.

MOTION: (Andrews/Nash) CARRIED - SEE RESOLUTION.

Director City Services Reports

CS22/08 Director City Services Report - Re-Establishment of Alcohol Free Zones (F2004/06858)

266/08 **RESOLUTION: (Belleli/Andrews)** that:

- a) the existing Alcohol Free Zones as per Schedule 1, be re-established within Randwick City for a period of three years, expiring on the 18 October 2011;
- b) all interested parties are advised of Council's resolution;
- c) a process of public consultation be undertaken in the communities around the following locations to determine whether specific examples of drinking on the streets are available to be put forward to argue for or against establishing an alcohol free zone in those areas:-
 - Baden Street, Coogee
 - Bream Street, Coogee between Mount and Brook Streets
 - Mount Street, Coogee between Abbott and Bream Streets
 - Bardon Park Lane between Bream Street and Leeton Avenue
 - The Coast Walk footpath;
- d) a letter be forwarded to the Eastern Suburbs Local Area Command advising them of Council's resolution that we have now declared these areas alcohol free zones and call on NSW Police to assist Council with its responsibilities to enforce these alcohol free zones; and
- e) a report come back to council on options for enforcing the alcohol free zones designated in Randwick City, including council's rangers and the police working together.

MOTION: (Belleli/Andrews) CARRIED - SEE RESOLUTION.

Director Governance & Financial Services Reports

GF41/08 Director Governance & Financial Services Report - Investment Report - July 2008 (F2004/06527)

267/08

RESOLUTION: (Nash/Belleli) that the investment report for July 2008 be received and noted.

MOTION: (Nash/Belleli) CARRIED - SEE RESOLUTION.

Petitions

Nil.

Motion Pursuant to Notice

NM28/08 Motion Pursuant to Notice - Notice Pursuant to Notice by Cr Andrews - Removal of Paid Parking Meters in Coogee Basin Area (F2004/07401)

268/08

RESOLUTION: (Andrews/Belleli) that a report be prepared for Council considering the removal of the existing parking meters in the Coogee Basin and investigate other alternative forms of income to compensate for this loss.

MOTION: (Andrews/Belleli) CARRIED UNANIMOUSLY - SEE RESOLUTION.

NM29/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Nash - Costs of Bi-Elections (F2004/06584)

269/08

RESOLUTION: (Nash/Andrews) that:

- (a) Council note the extraordinary cost to residents and ratepayers of the need to

hold by elections;

- (b) Council note that it is against the law for candidates for election to falsely state what their electoral address is;
- (c) Council note that any Councillor who is proven to have given a false electoral address will result in the need to hold a by-election for their seat on Council;
- (d) the General Manager bring a report back to Council on the options available to the Council in pursuing any Councillor for all costs to Council of holding a by-election if a by-election is needed because a false electoral address is supplied; and
- (e) the General Manager write to all candidates in the upcoming election informing them of this resolution.

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

NM30/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Andrews - Privatisation of Electricity in Randwick City (F2007/00376)

270/08 **RESOLUTION: (Andrews/Matson) that:**

- a) the next Randwick City Council consider the hosting of a public forum regarding electricity privatisation and our city's future energy needs;
- b) the forum should, specifically, explore the impact of privatisation on the development of renewable energy and the reduction of carbon emissions in Randwick; and
- c) Local Members of Parliament, Councillors and residents of Randwick should be invited to attend the forum.

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

NM31/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Hughes - Southern Cross Drive Off Ramps (F2004/08216)

271/08 **RESOLUTION: (Hughes/Matson) that Council:**

- (a) notes that past State Government proposals to build ramps from Southern Cross Drive onto Gardeners Road have caused great concern to residents of West Kingsford and Kensington regarding vehicles running through streets intersecting with Gardeners Road; and
- (b) reconfirms its position that it is opposed to the implementation of the ramps from Southern Cross Drive onto Gardeners Road.

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

NM32/08 Motion Pursuant to Notice - Motion Pursuant to Notice By Cr Belleli - Zoning of the Western Side of Malabar Headland (F2004/06759)

272/08 **RESOLUTION: (Belleli/Seng) that Council writes to the Maroubra and Kingsford Smith MP's confirming Council's commitment that the zoning of the western side of Malabar headland must be changed from Residential to National Park and request details on the progress of changing the zoning.**

MOTION: (Belleli/Seng) CARRIED - SEE RESOLUTION.

**NM33/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Belleli
- Discussion Group - Community Centre near Maroubra Beach
(F2006/00355)**

273/08 **RESOLUTION: (Belleli/Matson)** that Council works with the Surfer's Church, Maroubra, Kingsford Smith MP's, local community clubs, charity organisations and businesses to form a committee to be held at Council to discuss a community centre near Maroubra Beach.

MOTION: (Belleli/Matson) CARRIED - SEE RESOLUTION.

**NM34/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Belleli
- Barriers Erected by Telecommunication Companies
(F2004/06447)**

274/08 **RESOLUTION: (Belleli/Nash)** that a report is brought to Council on how to deal with telecommunication companies putting up their barriers on footpaths for up to twelve months without progressing the repair work.

MOTION: (Belleli/Nash) CARRIED - SEE RESOLUTION.

**NM35/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Belleli
- Dealing with Graffiti on Electricity Sub Stations (F2008/00195)**

275/08 **RESOLUTION: (Belleli/Nash)** that a report is brought to Council on dealing with graffiti on electricity sub stations throughout our City.

MOTION: (Belleli/Nash) CARRIED - SEE RESOLUTION.

**NM36/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr
Matson - Implementation of Promised 'Village' Shopping Centre for
Prince Henry Development (F2004/07970)**

276/08 **RESOLUTION: (Matson/Belleli)** that Council publicly calls on the developers of the Prince Henry site to meet the full Masterplan proposals for the implementation of a shopping centre that will cater to local residents in a true 'village' atmosphere in order to better contribute to reducing unnecessary road journeys in the Council area.

MOTION: (Matson/Belleli) CARRIED - SEE RESOLUTION.

**NM37/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr
Andrews - Banning of Smoking in Public Places (F2005/00518)**

277/08 **RESOLUTION: (Andrews/Woodsmith)** that Council develop a policy banning outdoor smoking in Council owned children's playgrounds and, further, Council consult with the greater community and local businesses as to the further banning of outdoor smoking where meals are being served, i.e.. alfresco dining areas.

MOTION: (Andrews/Woodsmith) CARRIED - SEE RESOLUTION.

**NM38/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr
Matson - Signage Around Defence Force Land at Bundock Street
(F2007/00372)**

278/08 **RESOLUTION: (Matson/Woodsmith)** that:

(a) the General Manager provide a report to Council on the contamination at

the Bundock Street site and, if required, what notifications or information should be provided to the community, including the erection of signage; and

- (b) Council commits in principle to the soil testing of houses surrounding and abutting the Bundock Street defence site for evidence of contamination and will bring a report to Councillors assessing options for conducting such a program.

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

NM39/08 Motion Pursuant to Notice - Motion Pursuant to Notice by Cr Matson - Improving BASIX to Remove Donor Discrimination (F2004/07964)

279/08

RESOLUTION: (Matson/Tracey) that Council writes to the State Premier advocating that BASIX be immediately improved by increasing the current 25% energy reduction target applying to high-rise and multi-unit developments to meet the same 40% target presently applying to free standing homes.

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

Urgent Business (continued)

- (d) Cr Bastic gave his closing valedictory address after serving twenty one years on Council.
- (e) Cr Sullivan gave his closing valedictory address after serving thirteen years on Council.
- (f) Cr Daley gave his closing valedictory address after serving thirteen years on Council.
- (g) Cr Kenny gave his closing valedictory address after serving four years on Council.

Confidential Reports

GM33/08 Confidential - Tender T06/2008 - Lease of Bumborah Point Road Recycling Facility (F2008/00189)

This matter is considered to be confidential under Section 10A(2) (d) Of the Local Government Act, as it deals with commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

Cr Daley declared a non pecuniary interest in this matter and left the chamber, taking no part in discussion or voting on the matter.

280/08

RESOLUTION: (Kenny/Nash) that the financial arrangements referred to in the report be accepted.

MOTION: (Kenny/Nash) CARRIED UNANIMOUSLY - SEE RESOLUTION.

CP51/08 Confidential - Land & Environment Court Proceeding Nos 10389 and 10390 of 2008 - 1-9 & 2-8 Pine Avenue, Little Bay (DA/615/2006)

This matter is considered to be confidential under Section 10A(2) (g) Of the Local Government Act, as it deals with advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal

professional privilege.

281/08

RESOLUTION: (Kenny/Nash) that this report be received and noted.

MOTION: (Kenny/Nash) CARRIED - SEE RESOLUTION.

Notices of Rescission Motions

Nil.

There being no further business, His Worship the Mayor, Cr B Notley-Smith, declared the meeting closed at 11.30 pm.

The minutes of this meeting were confirmed at the Ordinary Meeting of the Council of the City of Randwick held on Tuesday, 21 October 2008.

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CHAIRPERSON