

Application Assessment Panel Minutes

Tuesday 6 February 2007

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Application Assessment Panel Minutes

**Minutes of the Meeting held on
Tuesday 6 February 2007 at 3.00pm**

Present: Application Assessment Panel:

T Tuxford (Manager – Compliance) (Chair)
C Bluett (Manager – Strategic Planning)
A Coker (Director – Planning & Development)

Staff: D Booth (Senior Assessment Officer)
S O'Connor (Secretary – Administration)
S Taylor (Assessment Officer)
B Thomas (Assessment Officer)
T Wong (Senior Assessment Officer)

Apologies: Apologies were received and accepted from
Nil

Late Correspondence

Late correspondence was submitted to the Panel in relation to Items: D2

Declarations of Interest

Nil

Items Decided by the Panel using its delegated authority (Items D1 to D5)

Item No: D1 Delegated to the Panel
Subject: **Confirmation of Minutes of meeting held on 30 January 2007**
Author: Sue O'Connor, Secretary – Administration
File No: See Application Assessment Panel Minutes
Reason for Report: The Minutes of the Meeting of Tuesday 30 January 2007 were previously circulated. In accordance with the guidelines for Committees' operations it is now necessary that those Minutes be formally taken as read and confirmed.

(Bluett/Tuxford)

Resolved:

That the Minutes of the Application Assessment Panel Meeting of 30 January 2007 be taken as read and confirmed.

D2 DA651/2006 – 15 New Beach Road, Darling Point – Installation of ducted air conditioning – 27/9/06

Note: Late correspondence was tabled by Thomass Wong, Councils Senior Assessment Officer.

Note: Ms Martin the owner & David Williams an Mechanical Engineer representing the owner, Mr Solomons an objector & Mr d'Apice representing Mr Solomons, addressed the Panel.

Note: The Panel amended reason 3 in accordance with the late correspondence by Thomass Wong dated 5 February 2007.

(Tuxford/Coker)

Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

A. THAT Council, as the consent authority, refuse development consent to Development Application No. 651/2006 for installation of ducted air conditioning on land at 15 New Beach Road, Darling Point for the following reasons;

1. The works have already been carried out without development consent, where prior development consent was required.
2. The location of the air conditioning condensers in the western side passageway would unduly impact on the amenity of the adjoining property to the west.

3. The acoustic works required by the 'Acoustic Logic Consultancy' Reports (Reference 2006266/0405A/R1TT and 2006266/0405A/R4TT, dated 5 April 2006 and 1 February 2007 respectively) are unable to be carried out within the boundaries of the site and do not achieve the Council's objective of no increase in the existing background noise level as measured at any boundary of the site.
 4. In the public interest.
- B. THAT Council commence action pursuant to Section 121B of the *Environmental Planning & Assessment Act 1979* to require the removal of the unauthorised air conditioning condenser units located in the western side passageway.
- C. THAT this matter be referred to the Manager – Compliance to take appropriate action under Part 6 of the *Environmental Planning and Assessment Act 1979* in accordance with Council's Policy on Unauthorised Uses, Buildings and Works for failure to obtain Council's prior development consent.

D3 DA738/2006 – 2-16 Bellevue Road, Bellevue Hill – Fitout of premises to facilitate its use as a dry cleaners – 24/10/2006

(Coker/Bluett)

Resolved:

THAT Development Application No. 738/2006 for fitout of premises to facilitate its use as a green friendly dry cleaners on land at No. 2-16 Bellevue Road Bellevue Hill, be deferred to the Application Assessment Panel meeting to be held 13 February 2007 as the meeting notification letters were not issued to all interested parties.

D4 DA735/2005 – 224 Old South Head Road, Vaucluse – Demolition of existing triple garage, provision of 5 hard stand off-street car parking spaces & alterations & additions to existing residential flat building creating an additional 2 bedroom unit increasing the total number of units from 5 to 6 – 30/11/2005

(Coker/Bluett)

Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 735/2005 for the demolition of an existing triple garage, the provision of 5 hard stand off-street car parking spaces and alterations and additions to an existing residential flat building creating an additional 2 bedroom unit increasing the total number of units from 5 to 6 on land at 224 Old South Head Road, Vaucluse, subject to the following conditions:

1. **Approved Plan**

This consent relates to the work, shown in colour, on the plan numbered 29-790-DA Sheet 2 of 2 Revision A dated 11/7/06, drawn by AFD, which carries a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions.

2. **Stormwater Management Plan**

A detailed Stormwater Management Plan must be produced by a suitably qualified civil or hydraulic engineer. The plan must be at a scale of 1:100 and based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include (as appropriate for the site and determined by the Hydraulic Consultant):

- All pipe layouts, dimensions, grades, lengths and material specifications
- All invert levels reduced to Australian Height Datum (AHD)
- Location and dimensions and of all drainage pits
- Point of connection to Councils drainage infrastructure
- Overland flow paths over impervious areas.
- Copies of certificates of title, showing the creation or existence of private easements to drain water by gravity, if required.
- Subsoil drainage details (layout, grades, material), clean out points and discharge point.

Note: connection of stormwater run-off to the Sydney Water sewer system is not permitted.

3. **Compliance with the Stormwater Management Plan**

The stormwater drainage system must be constructed in accordance with the Stormwater Management Plan, and incorporate the following:

- Provide an upright kerb between the car parking area and all new lawn / landscaping areas.

4. **Connection to existing drainage system**

Stormwater run-off from the proposed development must drain to the existing stormwater drainage system. The existing stormwater drainage pipes on the property affected by the development must be checked and certified by a practising hydraulic engineer to ensure that existing stormwater pipes are in good condition and are operating satisfactorily. Certification and a plan showing pipe locations and diameters must be submitted to the Accredited Certifier prior to the issue of the final Occupation Certificate.

If the existing stormwater pipes are not in good condition and/or not operating satisfactorily, the existing drainage system must be upgraded. Certification and **a plan** showing pipe locations and diameters of the upgraded system must be submitted to the Accredited Certifier prior to the issue of the final Occupation Certificate.

Stormwater disposal is to comply with the requirements and conditions as set out in Council's Draft Stormwater Drainage Management DCP (Draft Version 1, Public Exhibition Copy dated 23/08/2004). This is available from Council's website <http://www.woollahra.nsw.gov.au>. Note: connection of stormwater run-off to the Sydney Water sewer system is not permitted.

5. Erosion and sediment control

Erosion and sediment controls, designed in accordance with the SSROC Soil and Water Management Brochures titled "Do it Right on Site" and the current version of the NSW Landcom publication "Managing Urban Stormwater: Soils and Construction" (*The Blue Book*), must be installed before commencement of demolition, excavation or construction work. All controls must be maintained until completion of outdoor works.

6. Site fencing

The site must be appropriately secured and fenced to the satisfaction of Council during demolition, excavation and construction work to ensure there are no unacceptable impacts on the amenity of adjoining properties. Permits for hoardings and or scaffolding on Council land must be obtained and clearly displayed on site.

7. Stockpiles

Stockpiles of topsoil, sand, aggregate, soil or other material must not be located on any drainage line or easement, natural watercourse, footpath or roadway, or within the dripline of any Street Tree. Stockpiles within the construction site must be protected with adequate sediment controls, in accordance with Council's Code for Sediment Control.

8. Location of building operations

Building operations such as brick cutting, washing tools or brushes and mixing mortar must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system. Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

9. Temporary disposal of roof water

Stormwater from any roof areas must be linked, via a temporary downpipe, to a Council approved stormwater disposal system immediately upon completion of the roof installation.

10. Footpath levels

The existing footpath level and grade at the street alignment of the property must be maintained.

11. Road Opening Permit

Prior to the commencement of any excavation in Council controlled roadways or footpath areas, the developer must obtain a road opening permit from Council's Customer Services Counter. Restoration of roads, footpaths, retaining walls, kerbs and gutters must be carried out in accordance with the relevant clauses of the current edition of AUS-SPEC.

12. Damage security deposit

A security deposit of **\$5180 (Five thousand one hundred and eighty dollars)**, for the cost of making good any damage to Council property caused as a consequence of the construction work, plus an administration fee of **\$163.00**, must be paid to Council prior to the issue of the Construction Certificate. The security deposit, which may be in the form of a bank guarantee, has been calculated in accordance with the following schedule.

Estimated cost of work	Deposit
Works up to \$50,000	\$2,000
Works in excess of \$50,000 & up to \$100,000	\$4,000
Works in excess of \$100,000	\$4,000 + \$200 / \$10,000 (for the estimated cost > \$100,000)

The security or bank guarantee must not have an expiry date. Council may use all or part of the Damage Security Deposit to complete damage restoration works if they do not meet Council's requirements.

13. Public footpaths

A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footpaths fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers and in accordance with the relevant clauses of the current edition of AUS-SPEC. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*".

If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

14. Storage of materials and plant on Council's footpath

Building, excavation or demolition materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Development Engineer.

15. Protection of services

Prior to any excavation works, the location and depth of all services (telephone, cable TV, electricity, gas, water, sewer, drainage, etc.) must be ascertained. The developer must meet all costs of any adjustment, relocation or reinstatement of any services.

16. Driveways and associated works

The following works must be undertaken at the applicant's expense prior to the final building inspection and the issue of the Occupation Certificate.

- Reconstruction of the internal accessway.

17. Driveway Profile – Prevention of vehicle scraping

A longitudinal surface profile for the proposed driveway must be submitted to, and approved by the PCA prior to issue of the Construction Certificate.

The driveway profile is to start from the kerb and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3 of Australian Standard 2890.1 – 2004, Part 1 – Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Australian Standard 2890.1 – 2004, Part 1 (Off-street car parking) has a requirement to prevent vehicles scraping or bottoming.

The PCA is to determine before issue of the Construction Certificate whether the proposed driveway in this development meets all the requirements of Australian Standard 2890.1 - 2004 "Off Street car-parking".

18. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

If work is not undertaken to the satisfaction of the Development Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

19. Dilapidation survey

A dilapidation survey of the following property and infrastructure must be conducted prior to any site work. The extent of the survey must cover the likely "zone of influence" that may arise due to excavation works, including dewatering and/or construction induced vibration. A practicing structural engineer must prepare a full dilapidation report on the structural condition of all existing structures at the following locations:

- 226 New South Head Road.

The Report must be completed and submitted to Council prior to the commencement of **any** demolition, excavation or construction works.

A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Council.

20. Construction Methodology Report

There are built structures deemed to be in the zone of influence of the proposed excavations on this site. A qualified geotechnical engineer must prepare a Construction Methodology report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The report must be submitted with the application for a Construction Certificate. The report must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include:

- Location and level of nearby foundations/footings (site and neighbouring)
- Proposed method of excavation
- Permanent and temporary support measures for excavation
- Potential settlements affecting footings/foundations
- Ground-water levels (if any)
- Batter slopes
- Potential vibration caused by method of excavation
- De-watering including seepage and off site disposal rate (if any)

The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.

21. Compliance with the Construction Methodology Report

The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report prepared in accordance with requirements of the relevant condition.

22. Geotechnical / Structural Certification of excavation works and associated structures.

The following development works have been identified as possibly affecting the stability of the existing structure and surrounding property and structures during their construction;

- *The proposed excavation for the new unit.*

Due to this, the excavation and construction of these development works must be overseen by an engineer. This is to ensure the stability of the existing and surrounding property / infrastructure is not adversely affected by such works. Excavation, retention, underpinning and construction must be undertaken on-site by an excavation contractor with specialist excavation experience. A suitably qualified geotechnical or structural engineer, specialising in excavation, must supervise the excavation procedure.

This engineer is to provide certification to the Accredited Certifier, prior to issue of Final Building Certificate, that excavation, retention, underpinning and construction of all the excavation works stated above has been conducted:

- a. According to the relevant Australian Standards and Codes of Practice, and
- b. In a manner that does not compromise the structural integrity of all adjacent structures and property.

23. Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of *the Environmental Planning and Assessment Act 1979*, the erection of the building must not be commenced until:

- (a) detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council; or
 - (ii) an accredited certifier; and
- (b) a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council of the intention to commence work.

24. Structural adequacy

A statement from a qualified practising Structural Engineer, certifying to the adequacy of the existing structural members, walls and footings to support the additional loads imposed by the proposed development, must be submitted with the Construction Certificate application. This condition is imposed to ensure the structural integrity of the proposed building work.

25. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members. This condition is imposed to ensure the structural integrity of the proposed building work.

26. Layout of buildings

The layout of all external walls, including retaining walls and contiguous piling must be checked and verified by survey prior to the commencement of construction to ensure that building construction complies with the development consent and does not encroach beyond the boundaries of the site.

27. Demolition and construction hours

Demolition and construction work must not take place outside the hours of 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays. Noise from construction activities associated with the development must comply with the guidelines contained in the NSW EPA *Environmental Noise Control Manual* Chapter 171.

28. Noise attenuation of vehicular turntable

In order to maintain the amenity of adjoining properties, noise generated by the vehicular turntable, must not be audible above the background noise level, when measured at the boundaries of the subject site.

29. Wet areas

All floors of wet areas are to be constructed and finished so as to be impervious to water and graded to a sufficient number of floor drains.

30. Machine excavation

Excavation or removal of any materials involving the use of machinery of any kind, including compressors and jack hammers, must be limited to between 9.00am and 4.00 pm Mondays to Fridays, with regular breaks of 15 minutes each hour. This condition is imposed to ensure reasonable standards of amenity for occupants of neighbouring properties.

31. Toilet facilities

- (a) Toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (b) Each toilet provided:
 - (a) must be a standard flushing toilet; and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council; or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (c) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (d) In this condition:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the Local Government (Approvals) Regulation 1993 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in Clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the Local Government (Approvals) Regulation 1993.

32. Building Inspections

The Applicant, Owner and Builder, jointly and severally, must ensure that they call their Principal Certifying Authority ("the PCA") to carry out such critical phase building inspections required by the PCA, the PCA Service Agreement and that the PCA is satisfied with the level of compliance achieved before the Builder proceeds to the next phase of construction. Ample notice of required inspections must be given to the PCA in accordance with the PCA Service Agreement. The Applicant, Owner and Builder must comply with the PCA Service Agreement (Service Contract) and any lawful direction given by the Principal Certifying Authority.

Note: It is the responsibility of the PCA to ensure that critical phase building inspections are undertaken in accordance with a PCA Service Agreement and issue to the Applicant, Owner and Builder appropriate Notice under Section 109L of the Environmental Planning & Assessment Act 1979 ("the Act") where any breach of this consent occurs. Failure of the PCA to issue such notice may result in Council taking action under Section 109V of the Act. Failure of the Applicant, Owner and Builder to comply with a PCA Service Agreement and comply with lawful directions of the PCA under this condition may result in Council issuing fines, notices, orders and commencing legal proceedings. Council will only enter into PCA Agreements with the Owner of the land being developed. Council, if appointed as the PCA, will report to the owner of the land being developed.

33. Occupation of premises

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

Note: *new building* includes an altered portion of, or an extension to, an existing building.

Note: In circumstance where the works do not relate to occupation the required *occupation certificate* is essentially a certificate of completion of the approved work.

34. Fire safety

A schedule of all existing and proposed safety measures within the building must be submitted to Council with or before the application for a Construction Certificate.

35. Long Service Levy Payment

A Long Service Levy under Section 34 of the *Building & Construction Industry Long Service Payment Act, 1986*, must be paid and proof of payment provided prior to the issue of a Construction Certificate. The Levy can be paid directly to the Long Services Payments Corporation or to Council.

36. Standard for demolition

All demolition work must be undertaken in accordance with the provisions of *Australian Standard AS2601-2001: The Demolition of Structures*.

37. Compliance with Building Code of Australia

- (a) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

- (b) This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188, of the *Environmental Planning and Assessment Regulation 2000*, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188 (4) of the Regulation.

38. Residential building work

- (a) Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the principal certifying authority (PCA) for the development to which the work relates:
- in the case of work to be done by a licensee under that Act:
 - (i) has been informed in writing of the licensee's name and contractor license number; and
 - (ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or
 - in the case of work to be done by any other person:
 - (iii) has been informed in writing of the person's name and owner-builder permit number; or
 - (iv) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

Note: The amount referred to in paragraph (a) (iv) above is prescribed by regulations under the *Home Building Act 1989*. As at the date on which this Regulation was Gazetted, that amount was \$5,000. As those regulations are amended from time to time, so that amount may vary.

- (b) A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

39. Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

- (b) Any such sign must be removed when the work has been completed.
- (c) This clause does not apply to:
 - (i) building work carried out inside an existing building; or
 - (ii) building work carried out on premises that must be occupied continuously (both during and outside working hours) while the work is being carried out.

40. Residential building work over \$12,000 in value

Council must be provided with the following information prior to the commencement of any works;

- (a) the proposed builder's details (in writing); and
- (b) proof of payment of the required insurance premium pursuant to Part 6 of the *Home Building Act 1989*.

41. Water conservation

Water saving showerheads must be fitted to all showers within the development to reduce water consumption and promote energy efficiency.

42. Excavations and backfilling

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

43. Protection of public places

- (a) If the work involved in the erection or demolition of a building:
 - (i) is likely to cause pedestrian or vehicular traffic on a public place to be obstructed or rendered inconvenient, or
 - (ii) building involves the enclosure of a public place;a hoarding or fence must be erected between the work site and the public place.
- (b) If necessary, an awning must be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- (d) Any such hoarding, fence or awning must be removed when the work has been completed.

Note: Prior to the erection of any hoarding, fence or the like on any footpath or other property owned or controlled by Council, permission must be sought and obtained from Council and the prescribed rental fee paid.

44. Support for neighbouring buildings

- (a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (i) must preserve and protect the building from damage; and
 - (ii) if necessary, must underpin and support the building in an approved manner; and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this condition, allotment of land includes a public road and any other public place.

45. Section 94 contributions (residential development)

Pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*, a monetary contribution of –

- \$1312 towards the provision of recreational facilities; and
- \$19.68 towards the costs for administration of Woollahra Section 94 Contributions Plan 2002;

Total contribution = **\$1331.68**

must be paid to Council:

- (a) prior to the issue of a construction certificate, where a construction certificate is required; or
- (b) prior to the issue of a subdivision certificate, where only a subdivision certificate is required; or
- (c) prior to the issue of an occupation certificate in any other instance.

This condition is imposed under the Woollahra Section 94 Contributions Plan 2002.

Indexation of Section 94 contributions

To ensure that the value of monetary contributions is not eroded over time by increases in costs, the contribution rates specified in the Plan will be increased annually on the anniversary of the commencement of the Plan based on the formula specified in Clause 3.13 of the Plan.

If the required contribution is not paid before the next anniversary of the commencement of the Plan following the date of this development consent, the payable contribution will be the increased amount calculated by Council in accordance with the indexation formula set out in clause 3.13 of the Plan.

Deferred periodic payment of Section 94 contributions

Any request for deferred or periodic payment of the Section 94 contribution required by this consent must be made in writing by the applicant and must set out the reasons for the request. Council will consider any such request on the basis of the criteria set out in clause 3.8 of the Plan.

Where Council accepts payment by way of instalments, each instalment will be paid before work commences on the corresponding stage of the development and the amount of each instalment will be calculated on a pro-rata basis in proportion to the cost of the development.

Council may, as a condition of accepting deferred or periodic payment, require the applicant to provide a bank guarantee where:

- (a) the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- (b) the bank unconditionally agrees to pay the guaranteed sum to Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- (c) the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to this development consent or the carrying out of the development in accordance with this development consent; and
- (d) the obligations of the bank are discharged when payment to Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any deferred or outstanding component of the contribution will be indexed in accordance with clause 3.13 of the Plan. If a deferred or periodic payment is not made before the next anniversary of the Plan, the amount payable will be the increased amount calculated by Council in accordance with clause 3.13 of the Plan. The applicant will pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

D5 DA747/2006 – 624-634 New South Head Road, Rose Bay – New awning to front façade of building – 26/10/2006

Note: Harvey Saunders representing the objector & Mr Stitt, an objector and Mr L Friedland representing the applicant, addressed the Panel.

Note: The Panel added new advising No. 9 (Development Application DA632/2006).

(Coker/Bluett)

Resolved: Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to Development Application No. 747/2006 for a new awning to the front facade of the building at 624-634 New South Head Road, Rose Bay, subject to the following conditions: -

1. Approved Plans

This consent relates to the work, shown in colour, on plans numbered 06810-1 1 and 06810-1 2, dated 8 October 2005 and drawn by Got You Covered Pty Ltd, both of which carry a Council stamp “**Approved DA Plans**” and the signature of a Council officer, except where amended by the following conditions. -

2. Requirement for a Construction Certificate

In accordance with the provisions of Section 81A of *the Environmental Planning and Assessment Act 1979*, the erection of the building must not be commenced until: -

- detailed plans and specifications of the building have been endorsed with a Construction Certificate by Council or an accredited certifier
- a principal certifying authority (PCA) has been appointed and the Council has been notified in writing of the appointment
- at least two days notice, in writing, has been given to Council of the intention to commence work

3. Structural adequacy

A statement from a qualified practising Structural Engineer, certifying to the adequacy of the existing structural members, walls and footings to support the additional loads imposed by the proposed development, must be submitted with the Construction Certificate application. This condition is imposed to ensure the structural integrity of the proposed building work.

4. Structural details

Structural engineering details and design calculations, prepared and certified by a qualified practising Structural Engineer, must be submitted with Construction Certificate application, for all reinforced concrete work, structural steel work, retaining walls, brick fences, shoring and underpinning, isolated piers, chimneys, parapets and other structural members. This condition is imposed to ensure the structural integrity of the proposed building work.

5. Demolition and construction hours

Demolition and construction work must not take place outside the hours of 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday. No work and no deliveries are to take place on Sundays and public holidays. Noise from construction activities associated with the development must comply with the guidelines contained in the NSW EPA *Environmental Noise Control Manual* Chapter 171.

6. Occupation

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

Note: *new building* includes an altered portion of, or an extension to, an existing building.

Note: In circumstance where the works do not relate to occupation the required *occupation certificate* is essentially a certificate of completion of the approved work.

7. Location of building operations

Building operations such as washing tools or brushes must not take place on public roadways or footways or in any other location which could lead to the discharge of materials into the stormwater drainage system. Footpaths, gutters and roadways must be swept regularly to keep them free from sediment.

8. Storage of materials and plant on Council's footpath

Building, excavation or demolition materials and plant must not be stored on Council's footpath and/or roadway unless prior written approval has been obtained from Council's Development Engineer.

9. Repair of Damaged Infrastructure

If Council's infrastructure is damaged during the course of works, Council's Development Engineer must be notified and necessary repairs must be undertaken within the time stipulated by Council, to Council's specifications, and at no cost to Council. Works generally must be in accordance with the relevant clauses of the current edition of AUS-SPEC.

If work is not undertaken to the satisfaction of the Development Engineer with regard to time or quality, Council may carry out remedial works and deduct the cost from the Damage Security Deposit.

10. Payment of Security and Fees

The certifying authority must not issue any Part 4A Certificate until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a construction certificate.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - making good damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates	\$2,000	No	T600
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$2,163 plus any relevant indexed amounts and long service levy		

How must the payments be made?

Payments must be made by:

1. Cash deposit with Council,
2. Credit card payment with Council, or
3. Bank cheque made payable to Woollahra Municipal Council.

The payment of a security may be made by a bank guarantee where:

- a) the guarantee is by an Australian bank for the amount of the total outstanding contribution;
- b) the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- c) the bank agrees to pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent; and
- d) the bank's obligations are discharged when payment to the Council is made in accordance with the guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

11. Covenant for private works on Council property

A positive covenant, pursuant to Section 88E of the *Conveyancing Act*, must be created on the title of the subject property, providing for the indemnification of Council from any claims or actions, and the on-going maintenance of any private structures on Council property for which consent has been given, such as steps, retaining walls, access ways.

The wording of the Instrument must be in accordance with Council's standard format (available from Council's web-site <http://www.woollahra.nsw.gov.au>) and the Instrument must be registered at the Land Property Information Office prior to the Final Building Inspection and issuance of the Certificate of Occupation.

12. Compliance with Building Code of Australia

- (a) All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.

- (b) This condition does not apply to the extent to which an exemption is in force under Clause 187 or 188, of the *Environmental Planning and Assessment Regulation 2000*, subject to the terms of any condition or requirement referred to in Clause 187 (6) or 188 (4) of the Regulation.

13. Signs to be erected on building and demolition sites

- (a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out: -
- (i) stating that unauthorised entry to the work site is prohibited; and
 - (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- (b) Any such sign must be removed when the work has been completed.
- (c) This clause does not apply to: -
- (i) building work carried out inside an existing building; or
 - (ii) building work carried out on premises that must be occupied continuously (both during and outside working hours) while the work is being carried out.

New advising No. 9

9. Development Application DA632/2006

Approval for the awning that is the subject of this development consent should not be construed as support of Council for the Development Application, DA632/2006, for outdoor seating that is presently under consideration.

There being no further business the meeting concluded at 3.55 pm.

We certify that the pages numbered 1 to 21 inclusive are the Minutes of the Application Assessment Panel Meeting held on 6 February 2007 and confirmed by the Application Assessment Panel on 13 February 2007 as correct.

Chairperson

Secretary