



Application Assessment Panel

Agenda: *Application Assessment Panel*

Date: *Tuesday 13 February 2007*

Time: *3.00pm*

Part: *One of Two Parts*

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Committee/Staff to present apologies or late correspondence.
- The Chairperson will commence the Order of Business as shown in the Index to the Agenda.
- At the beginning of each item the Chairperson will ask whether a member(s) of the public wish to address the Committee.
- If person(s) wish to address the Committee, they are allowed three (3) minutes in which to do so. Please direct comments to the issues at hand.
- If there are persons representing both sides of a matter (eg applicant/objector), the objector speaks first.
- At the conclusion of the allotted three (3) minutes, the speaker resumes his/her seat and takes no further part in the debate unless specifically called to do so by the Chairperson.
- If there is more than one (1) person wishing to address the Committee from the same side of the debate, the Chairperson will request that where possible a spokesperson be nominated to represent the parties.
- The Chairperson has the discretion whether to continue to accept speakers from the floor.
- After considering any submissions the Committee will debate the matter (if necessary), and arrive at a resolution.

Note: Matters where there is a substantive change to the recommendation of the Council Officer are referred to the next appropriate meeting of the Application Assessment Panel.

Note: Matters can be “called” from this Committee to the Development Control Committee (DCC) by Councillors subject to the following requirements:

- Calling requires one Councillor
- Calling must be lodged before 3.00pm on the business day preceding the Application Assessment Panel meeting at which the item is listed.

WOOLLAHRA MUNICIPAL COUNCIL

Notice of Meeting

5 February 2007

To: General Manager
Director – Technical Services
Director – Planning & Development
Manager – Compliance
Manager – Strategic Planning

CC: The Mayor
All Councillors

Application Assessment Panel Meeting – 13 February 2007

In accordance with the provisions of the Local Government Act 1993, I request your attendance at a Meeting of the Council's **Application Assessment Panel** to be held in the **Committee Room, 536 New South Head Road, Double Bay, on Tuesday 13 February 2007 at 3.00pm.**

Gary James
General Manager

Meeting Agenda

Part One of Two Parts

Item	Subject	Pages
1	Apologies	
2	Late Correspondence	
3	Declarations of Interest	

Items to be Decided by this Committee using its Delegated Authority

D1	Confirmation of Minutes of Meeting held on 6 February 2007	1
D2	DA371/2006 – 3 Holt Street, Double Bay – Alterations & additions to dwelling including new two story rear wing & landscape works – 26/6/2006 *See Recommendation Page 16	2-48

Additional Report

Meeting Agenda

Part Two of Two Parts

Item	Subject	Pages
D3	DA738/2006 – 2-16 Bellevue Road, Bellevue Hill – Fitout of premises to facilitate its use as a dry cleaners – 24/10/2006 *See Recommendation Page 58	49-67

Item No: D1 Delegated to Committee
Subject: **Confirmation of Minutes of Meeting held on 6 February 2007**
Author: Les Windle, Manager - Governance
File No: See Application Assessment Panel Minutes
Reason for Report: The Minutes of the Meeting of Tuesday 6 February 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.

Recommendation:

That the Minutes of the Application Assessment Panel Meeting of 6 February 2007 be taken as read and confirmed.

Les Windle
Manager - Governance

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D2
FILE No.	DA 371/2006/1
PROPERTY DETAILS	3 Holt Street DOUBLE BAY 2028
	Lot & DP No.: LOT: 1 DP: 176208
	Side of Street: North
	Site Area (m²): 576.4m ²
	Zoning: Residential 2(b)
PROPOSAL:	Alterations and additions to dwelling including new two storey rear wing and landscape works
TYPE OF CONSENT:	Local Development
APPLICANT:	Haiku Underscore Two
OWNER:	Mrs J A Marshall
DATE LODGED:	Original application - 26/06/2006 Replacement application -17/10/2006
AUTHOR:	Mr R Hedstrom

1. RECOMMENDATION PRECIS

The application is recommended for approval subject to conditions because it:

1. is a permissible use consistent with the aims and objectives of the WLEP 1995 and the Residential 2(b) Zone,
2. satisfies the objectives and controls of the Woollahra Residential Development Control Plan 2003 (WRDCP 2003),
3. would create no substantial impacts within the locality,
4. is an appropriate form of development for the subject site, and
5. is not considered to be contrary to the public interest.

2. PROPOSAL PRECIS

Alterations and additions to the existing two storey detached house involving a two storey extension to the rear and new landscaping to the rear yard.

3. LOCALITY PLAN



4. DESCRIPTION OF PROPOSAL

The proposal seeks to undertake alterations and additions to the existing dwelling as follows:

- Ground floor level
 - Internal reconfiguration to allow for new kitchen and laundry and other minor changes
 - Additional floor area at rear to accommodate Family Room
 - New terrace accessed from Family Room
 - Bricking-up some windows and new windows in existing openings
 - Some new windows
- First floor level
 - Internal reconfiguration to allow for new bathrooms
 - Additional floor area at rear to accommodate ensuite, walk in robe and bedroom
 - new windows in existing openings
 - Some new windows
 - New windows in existing openings
- External
 - New landscaping

A replacement application was lodged with Council on 17 October 2006, providing a 900mm setback to the west side boundary. A landscape plan was also submitted.

5. SUMMARY

Reasons for report	Issues	Submissions
<ul style="list-style-type: none"> ▪ The DA does not satisfy the criteria for determination under staff delegation because there are unresolved objections. 	<ul style="list-style-type: none"> ▪ Setback from western side boundary. ▪ Screen planting along western boundary adjacent to the extension. 	17 submissions were received.

6. ESTIMATED COST OF WORKS

Council adopted (DCC 6 June 2005) administrative changes for determining DA fees based on the estimated cost of work. Where the estimated cost of work is greater than \$750,000 or where the applicant's estimate is considered to be neither genuine or accurate, the applicant has to provide a Quantity Surveyor's report.

The applicant's estimated cost of the proposed development at \$300,000 has been checked using our adopted practice and is considered to be accurate.

7. DESCRIPTION OF SITE OF LOCALITY

THE SITE AND LOCALITY	
Physical features	<p>The site is located on the northern side of Holt Street with an area of 576.4m² and a frontage of 18.3 metres.</p> <p>The area is characterised by residential development with large detached and attached dwellings within established gardens along Holt Street and many older style 3 and 4 storey residential flat buildings to the west and rear of the site.</p>
Topography	The immediate locality has a gentle slope down towards the north. The site falls from the front boundary to the rear by approximately 3.5m with negligible crossfall. There is also a drop of about 1m from the footpath level to the site frontage.
Existing buildings and structures	Existing on the site is a two storey dwelling with a double carport located to the rear. The carport is accessed via the driveway of the adjoining properties to the west.
Environment	<p>The site has a history of residential use since the early 1920's.</p> <p>An unusual feature of the subdivision is the wedge shape of the subject property which tapers significantly from 18m at the front boundary to only 8.6m at the rear boundary. This is significant in terms of side boundary setbacks.</p> <p>There is also adjoining along the western boundary of the site a strip of land which forms part of No.20 Ocean Avenue and is a right of way (ROW) for No.22 Ocean Avenue.</p>

8. PROPERTY HISTORY

PROPERTY HISTORY	
Current use	Two storey detached dwelling.
Previous relevant applications	DA 376/2005 for alterations and additions including a new double garage and studio to the rear displacing the existing double carport. This DA was subsequently withdrawn. The subject DA excludes any work to the existing carport or change to the vehicular access arrangements. It is noted that vehicular access to the existing carport is via the northern end of the existing ROW and then across the adjoining property at No.22 Ocean Avenue. This issue is discussed further under 17. <i>Submissions</i> later in this report.
Pre-DA	No
Requests for additional information	Stormwater drainage easement plan and an Arborists report submitted.
Amended plans/ Replacement Application	Amended plans/replacement application submitted on 17 October 2006 including a Landscape Plan.
Land & Environment Court appeal	No

9. REFERRALS

9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Development Engineer	The proposal satisfies Technical Services concerns subject to conditions (Refer to Condition Nos.21 to 39).	2
Drainage Engineer	As above	2
Traffic and Parking Engineer	As above	2
Landscaping Officer	The amended proposal including the landscape plan satisfies the concerns of Council's Tree and Landscape Officer subject to conditions (Refer to Condition Nos.13 to 20).	3
Heritage Officer	No referral required.	

ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* are assessed under the following headings:

10. RELEVANT STATE/REGIONAL INSTRUMENTS AND LEGISLATION

10.1 SEPPs

The following SEPP's are relevant:

State Environmental Planning Policy No. 55

Under clause 7 (1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration must be given as to whether the land is contaminated. An assessment has not been provided by the Applicant however the Council's records indicate that the site has been in residential use since the early 1920's. For this reason it is considered that it is unlikely that the land is contaminated and that the land does not require further consideration under clause 7 (1) (b) and (c) of SEPP 55.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

("BASIX") does not apply to the proposed development as it was lodged prior to 1 October 2006.

10.2 REPs

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2004

The subject site is within the area to which the SREP applies. The objectives of the Plan are established at Clause 2 and include the following:

- (a) To ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected and maintained;*
- (b) As an outstanding natural asset, and*
- (c) As a public asset of national and heritage significance, for existing and future generations.*
- (d) To ensure a healthy, sustainable environment on land and water*
- (e) To achieve a high quality urban environment,*
- (f) To ensure a prosperous working waterfront and an effective transport corridor,*
- (g) To ensure accessibility to and along Sydney Harbour and its foreshores,*
- (h) To provide a consolidated, simplified and updated legislative framework for future planning.*

The proposal will not have an adverse visual impact on the Harbour foreshore and is consistent with the objectives of the SREP. It is therefore considered that the proposal meets the relevant requirements of the SREP and is acceptable in this regard.

10.3 Section 94 contribution

A contribution under Section 94A of \$3,000 is applicable to the subject DA based on a 1% levy of the proposed cost of development of \$300,000 (see **Condition No.40**).

10.4 Other relevant legislation

None relevant.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

11.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposal is permissible and is consistent with the aims and objectives of the LEP and the relevant objectives of the Residential 2(b) zone.

11.2 Statutory compliance table

Site Area: 576.4m ²	Existing	Proposed	Control	Complies
Overall Height	9.7m* 7.07m	9.5m 6.17m	9.5m 7.5m	YES YES

*Existing non-compliance

11.4 Height

Two height limits apply to the subject property: 9.5m overall and 7.5m above the highest part of the land. The proposal complies with both of these numerical height limits. However as the proposed addition extends to the 9.5m limit it is recommended that the standard condition be modified to be more specific regarding certification of compliance (**see Condition No.4**).

11.5 Other special clauses/development standards

Clause 18 Excavation: The proposed excavation is acceptable in terms of Clause 18.

Clause 25 Water, wastewater and stormwater: The proposal is acceptable in terms of Clause 25(1) and (2). Subject to conditions (**see Condition Nos.21 and 22**). Proof of Land Titles Office registration of the drainage easement plan has been provided by the Applicant.

Clause 25D Acid Sulfate Soils: The proposed works do not require the need for an assessment of acid Sulfate soils under clause 25D of Woollahra LEP 1995.

12. DRAFT AMENDMENTS TO STATUTORY CONTROLS

Draft State Environmental Planning Policy (Application of Development Standards) 2004 applies

Section 79C(1)(a)(ii) of the Act requires that in determining a development application, a consent authority is to take into consideration any **draft environmental planning instrument** "EPI" that is or has been placed on public exhibition and details of which have been notified to the consent authority.

Draft State Environmental Planning Policy (Application of Development Standards) 2004 ("the proposed SEPP") was publicly exhibited from 10 May to 18 June 2004. In considering how much weight should be placed upon an exhibited draft environmental planning instrument under section 79C of the Act one must assess how likely it is that the draft EPI will commence, in what form it is likely to commence and consider what effect the instrument would have if applied.

The proposed SEPP received significant criticism from the development industry in submissions. Officers of DIPNR have advised that it will not be made in the form it was exhibited and that it will now be included as part of the new Integrated LEP Template. This template will be placed on public exhibition in late April/May 2005. Therefore, it is not known in what form the draft SEPP will be made.

Clause 14 of the draft SEPP provides Saving and Transitional provisions. These provisions provide that any application submitted prior to the commencement of the proposed SEPP and within 28 days after the commencement of the proposed SEPP is to be determined in accordance with the former SEPP No.1 as if the former SEPP No.1 had not been repealed by the proposed SEPP. It is likely that the draft SEPP, if made, will contain transitional provisions.

The draft SEPP would, if it commenced in its exhibited form, require a higher threshold test in order for an objection against a development standard to be sustained. However, the draft policy should not be given determining weight in the assessment of development applications for the following reasons:

1. The draft SEPP will not be made in the form it was exhibited
2. It is not known whether the threshold tests contained in the exhibited SEPP will be retained
3. It is likely that, if made, the draft SEPP will contain savings and transitional provisions.

This means that objections submitted under State Environmental Planning Policy No.1 must be assessed under the current policy.

13. DEVELOPMENT CONTROL PLANS

13.1 Numeric Compliance table - Woollahra Residential Development Control Plan 2003

Site Area (576.4m ²)	Existing	Proposed	Control	Complies
Maximum Number of Storeys – Dwelling	2	2	2	YES
Boundary Setbacks				
Front	8.5m	8.5m	Predom. (existing setback remains) 11.9m 25% of site length	YES
Rear	23m	14m		YES
Side (east)				
Ground Floor	1.3m	1.3m	3.0m (min.)	NO*
First Floor	1.3m	1.3m	3.5m	NO*
Side (west)				
Ground Floor				
Sitting room (NW corner)	0.5m	0.2m	3.0m	NO
Family room (NW corner)	-	0.9m	3.0m	NO
First Floor				
Bedrm 5 (NW corner)	0.5m	0.2m	3.5m	NO
Bedrm 1 (NW corner)	-	0.9m	4.0m	NO
Setback from Significant Mature Trees	12m	3m	3.0m	YES
Building Footprint	23% (133m ²)	28% (165m ²)	44% (253m ²)	YES
Floor Space Ratio	0.42:1 (247m ²)	0.54:1 (312.8m ²)	0.55:1 (317m ²)	YES
Floor to Ceiling Height – Habitable Rooms	3.1m	2.7m	2.7m	YES
Maximum Unarticulated Length to Street	3m	3m	6.0m	YES
Solar Access to Open Space of Adjacent Properties (Hrs on 21 June)	>50% >2hours	>50% >2hours	50% (or 35m ²) for 2 hours	YES
Solar Access to Nth Facing Living Areas of Adjacent Properties (Hrs on 21 June)	>3hours	>3hours	3.0 hours	YES
Deep Soil Landscaping – Dwelling	41% (133m ²)	52% (168m ²)	50% of 322m ² (161m ²)	YES
Deep Soil Landscaping – Front Setback	52% (84m ²)	52% (84m ²)	40% (64m ²)	YES
Private Open Space at Ground Level – Total	>35m ² >3m	>35m ² >3m	35m ² Min dimension 3m	YES
Private Open Space at Ground Level – Principal Area	>16m ² >4m	>16m ² >4m	16m ² Min dimension 4m	YES
Private Open Space at Ground Level – Maximum Gradient	<1:10	<1:10	1:10	YES
Side and Rear Fence Height	1.8m	1.8m	1.8m	YES

Site Area (576.4m ²)	Existing	Proposed	Control	Complies
Solar Access to North-Facing Living Areas of Development (Hrs on 21 June)	>3.0 hours	>3 hours	3.0 hours	YES
Minimum Number of North Facing Habitable Rooms	>1	>1	1	YES
Car Parking Spaces	2	2	2	YES
Location of Car Parking Structure	At rear of property	At rear of property	Behind Front Setback	YES

* Existing non-compliance

Site analysis performance criteria (Part 3)

The documentation submitted with the DA is considered to be satisfactory relative to the scale and nature of the proposed alterations and additions.

Desired future precinct character objectives and performance criteria (Part 4)

The proposal is satisfactory relative to the desired future character objectives and performance criteria for the Double Bay Precinct.

Streetscape performance criteria (Part 5.1)

The proposal is acceptable as it cannot be viewed from Holt Street or the surrounding public domain except for a narrow view corridor between the existing residential flat buildings at Nos.20 and 22 Ocean Avenue. This view of the proposed rear extension would also be substantially screened by existing tree foliage.

The proposed alterations and additions will be clearly evident from the right of way which connects to Holt Street and adjoins the subject property for most of its western boundary. This matter is discussed further later in this report.

Building size and location performance criteria (Part 5.2)

- Side boundary setbacks:

The relevant performance criterion for the desired future character of the Double Bay Precinct is C4.2.4:

Where the site width is equal to or exceeds 18m at the front alignment, development has a minimum side boundary setback of 3.0m (see Figure 4.2.2). This side setback is increased on a pro rata basis by 0.5m for each metre or part thereof that the building height adjacent to the boundary exceeds 6.0m.

Under this performance criterion the existing building and the subject proposal on this tapering site have significant numerical non-compliances to both side boundaries as shown in the compliance table.

C4.2.4 is tied to the diagram and note of Figure 4.2.2. The diagram clearly anticipates a rectangular site shape with consistent width. This is confirmed by the related note which is:

To maintain a reasonable separation distance between buildings and to avoid an unreasonable sense of enclosure, side boundary setbacks are to be a minimum 3.0m where the site width is greater than or equal to 18m.

The subject property does not have a site width of 18m except for the front boundary and approximately 1m of the site length within the front boundary. The width tapers at an alignment following the adjoining ROW to a width of 10m at 26m from the frontage. It then steps in by 0.7m to a width of 9.3m and tapers again to a width of 8.6m at the rear boundary.

It is clear that C4.2.4 when read with its accompanying diagram and note is not appropriate or reasonable to be applied to the subject property. Instead the appropriate side boundary setback performance criterion should revert to C5.2.5 where the lot width is 12m or less, because the subject lot width adjacent to the proposed rear extension is an average of approximately 9.2m.

Performance criterion C5.2.5 is: *... a minimum side boundary setback of 1.5m... where the lot width is 12m or less, the side setback is increased on a pro rata basis by 0.5m for each metre or part thereof the building height adjacent to the boundary exceeds 6.5m.*

Under this criterion the existing building and the proposed extension still have numerical non-compliances to both side boundaries but they are substantially reduced according to C5.2.5 for narrow sites.

The relevant purposes for side boundary setbacks in Part 5.2 are to:

- protect visual and aural privacy of residents in adjoining buildings
- provide side access to the rear of properties where rear lanes do not occur
- enable opportunities for screen planting
- avoid an unreasonable sense of enclosure
- safeguard privacy and minimise noise impact for dwellings.

The proposed side boundary setbacks are assessed against these purposes as follows:

- East side boundary:

The existing setback of 1.3m is 200mm less than the minimum requirement of C5.2.5 of 1.5m and 700mm less than the 2.0m requirement where the wall height exceeds 6.5m.

The proposed 1m extension to the existing rear façade is on the same setback line and would have the same dimensional non-compliances.

This is acceptable due to the short length of the extension which contains no new windows and displaces the existing first floor balcony. Deletion of the existing first floor balcony reduces overlooking of the adjoining property at No. 5 Holt Street.

The new family room rear addition is setback 4.2m from the eastern side boundary providing a building separation distance of 9m to the closest part of the adjoining RFB. This complies with C5.8.5 for visual privacy and would also be adequate for acoustic privacy.

The proposed elevated rear terrace at ground floor level replaces an existing terrace at the same level but is 1.5m closer to the east side boundary. This reduction in setback is acceptable for the following reasons:

- No new view lines are created
- The width of the family room at 3.6m and the deck at 3.3m are reasonable and not excessive in terms of function
- The 900mm setback proposed would still achieve a minimum building separation distance of 6m and is an adequate provision for the screen planting proposed
- Accords with Figure 5.8.1 regarding acoustic and visual privacy
- As the terrace is unroofed it would not lead to an unreasonable sense of enclosure of the space between the existing buildings.

○ West side boundary:

The north-west corner of the sitting room of the existing building is approximately 0.5 m from the side boundary.

It is proposed to reduce this setback to approximately 0.2 m due to the proposed 1m extension of the existing rear façade. The existing 0.5 m setback should be retained to minimise the visual impact of this corner which is not screened or softened by planting and to maintain access at the side of the building within the boundary of the subject property. This would comply with the above purpose of providing side access to the rear of properties and would help to address objectors concerns regarding side boundary setbacks.

This can be achieved by the imposition of a condition requiring a small indent in the wall line of approximately 350mm to form a re-entrant corner so that the proposed 1m extension of the rear façade would retain the same setback at its north-west corner (**see Condition No.2**).

The original proposed family room extension was setback a minimum of 300 mm from the west side boundary. It was suggested to the applicant that this setback should be increased to a minimum of 900 mm to reduce the visual impact of the western façade wall height (which is a maximum of 7.2 m) and to allow a minimum width for screen planting to replace the existing screen planting along the boundary of the site. This would address the above relevant purposes satisfactorily by providing more space for screen planting to reduce the visual impact of the west wall and to reduce the sense of enclosure by providing a minimum separation distance of 6m to the closest corner of the residential flat building at No.20 Ocean Street.

It is considered that the side boundary setbacks proposed are acceptable for the above reasons and would be reasonable in terms of visual impact because of:

- The need to provide a reasonable level of privacy for the existing dwelling
- The constraints of the existing dwelling on the design in terms of its existing floor levels and tall floor to floor height of 3.4m
- The constraints of the slope and tapering shape of the site and that it is surrounded by existing residential flat buildings
- The normal expectation within the Residential 2(b) zone where visual and amenity impacts are usually acceptable at a lower standard than Residential 2(a) zones which do not permit flats.

It is considered that the proposal satisfies the objectives and performance criteria for building size and location as it complies with all other relevant controls apart from side boundary setbacks and subject to implementation of the proposed screen planting as shown on the landscape plan and a condition regarding maintenance of the setback of the north-west corner of the existing building and the extension of the rear façade at the new north-west corner.

Open space and landscaping performance criteria (*Part 5.3*)

A landscape plan was submitted with the replacement application. The Councils Tree and Landscape Officer has determined that the landscape plan is satisfactory in terms of tree preservation and landscaping including the provision of required screen planting.

The proposal complies with the objectives and performance criteria for open space and landscaping subject to conditions (**see Condition Nos.13 to 20**).

Fences and walls performance criteria (Part 5.4)

The existing fencing is to be retained as shown on the DA drawings.

Stormwater management performance criteria (Part 5.7)

The proposal is acceptable subject to conditions as previously noted.

Acoustic and visual privacy performance criteria (Part 5.8)

The relevant objective and performance criteria are as follows:

O5.8.1: *To ensure adequate acoustic and visual privacy occupants and neighbours.*

C5.8.5: *Habitable room windows with a direct sightline to the habitable room windows in an adjacent dwelling within 9 m:*

- *are offset from the edge of one window to the edge of the other by a distance sufficient to limit views into the adjacent windows or*
- *have still heights of 1.7 m above floor level or*
- *have fixed or obscure glazing in any part of the window below 1.7 m above floor level.*

C5.8.6: *Balconies, terraces, decks and other like areas within a development are suitably screened to prevent direct views into habitable rooms or private open space of adjacent dwellings.*

The proposed rear extensions include some new and modified windows and a relocated ground floor terrace. The existing rear balcony at first floor level has been deleted. These changes are assessed in terms of the above criteria for acoustic and visual privacy as follows:

East façade:

Ground floor:

The new family room complies with the minimum setback and building separation requirements.

The new terrace is set closer to the side boundary by 1.5m compared to the existing terrace. A separation distance of 6m is achieved to the closest part of the adjoining residential flat building at No.5 Holt Street. Although this is less than the existing separation the visual and acoustic impact on existing windows and balconies of No.5 Holt Street is considered to be reasonable because the terrace is replacing an existing terrace at the same level and approximate size and therefore there are no new view lines created. There is also an existing 1.8m paling fence, existing partial foliage screening and proposed further screen planting along the adjacent boundary and on the new terrace.

The changes to existing ground floor windows adjacent to the side boundary are mostly screened by the existing fence and foliage and would have negligible increase in impact.

First floor:

The existing first floor balcony is deleted and the windows to the new Bedroom 1 are setback from the boundary by 4.2m providing a complying separation distance of 9m to the building on No.5 Holt Street.

West façade:

There are no new windows at the ground floor level and three new windows at first floor level to a bedroom and en-suite. The acoustic and visual impact to existing windows of the residential flats opposite would be acceptable given that the windows of the extension are to a bedroom and bathroom and that the separation distance is a minimum of 6m. Screen planting is also proposed for the full length of the extension façade.

North façade:

The changes to this façade will have negligible impact on acoustic or visual privacy due to adequate separation distances and existing and proposed screen planting.

It is concluded that the subject proposal complies with the objective and performance criteria for acoustic and visual privacy.

Car parking and driveways performance criteria (*Part 5.9*)

The proposed works do not alter the dwellings parking requirements. The existing carport is accessed from the driveway which passes along the rear boundaries of 20 and 22 Ocean Ave. The subject site benefits from a Right of Way (ROW) which passes over part of the driveway, however it has been identified during this process that the ROW does not extend all the way to the existing carport on the subject site. As the proposed development does not create any greater parking demand than is generated by the existing dwelling no issue is raised. It is matter for the owners of the site to rectify the anomaly in the driveway and obtain proper legal access.

Site facilities performance criteria (*Part 5.10*)

The existing site facilities are to remain except for a new fold-out clothes drying line which is proposed to be attached to the rear wall the family room extension.

The proposal complies with the objectives and performance criteria for the site facilities.

13.2 DCP for off-street car parking provision and servicing facilities

Not relevant to the subject DA.

13.3 Woollahra Access

Not relevant to the subject DA.

13.4 Other DCPs, codes and policies

None relevant.

14. APPLICABLE REGULATIONS

Australian Standard AS2601: The demolition of structures, applies. The proposal complies by condition (**See Condition No.42**).

15. THE LIKELY IMPACTS OF THE PROPOSAL

All likely impacts have been discussed elsewhere in this report.

THE SUITABILITY OF THE SITE

Acid Sulphate Soil Area

The site is not shown as potentially acid sulphate soils by the Department of Planning Acid Sulphate Soils Risk map. The proposed works do not require the need for an assessment of Acid Sulphate Soils under Clause 25D of Woollahra LEP 1995.

17. SUBMISSIONS

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP. 17 submissions were received from:

- Lorraine Dezarnaulds Owner: Unit 8/20 Ocean Avenue
- Allan and Jan Lakeman Owners: Unit 1/20 Ocean Avenue (14 Monash Pde, Dee Why)
- S Hanna Unit 5/20 Ocean Avenue
- Ona McNaught Unit 18/20 Ocean Avenue
- Charles Green Unit 3/20 Ocean Avenue
- James Brydon-Brown Unit 17/20 Ocean Avenue
- Jan Swanwick Unit 14/20 Ocean Avenue
- J M Thonhill Unit 9/20 Ocean Avenue
- N McGuild Unit 8/20 Ocean Avenue
- Cathryn Baker Unit 7/20 Ocean Avenue
- R R Jones Owner and Tenants of Unit 6/20 Ocean Avenue
- Tri Nguyen and Dup Nguyen Unit 4/20 Ocean Avenue
- The Tenants of Unit 1/20 Ocean Avenue
- Thelma Greig Unit 16/20 Ocean Avenue

- Raymond Hatley and Andrew Barnyak Unit 11/22 Ocean Avenue
- John Burgess Architect for Ann Booth owner of the 4 units in the building at 5 Holt Street.

The objectors raised the following issues:

- *side boundary setback (from ROW)*
- *building bulk and height*
- *no vehicular access for No3 Holt Street over existing ROW (in favour of No.22 Ocean Ave)*
- *effect on sun, light and air*
- *dilapidation report required*
- *loss of outlook*
- *loss of privacy*
- *loss of property value*
- *construction and emergency access to existing right of way*
- *acoustic impact during construction*
- *stormwater disposal.*

The above concerns are discussed elsewhere in this report and/or as follows:

- *side boundary setback (from ROW)*
The side boundary setback from the ROW is considered to be acceptable subject to conditions as discussed previously in this report.
- *building bulk and height*
The building bulk and height of the rear extensions are reasonable given the constraints of the site and expected impacts, subject to conditions as previously discussed in this report.
- *no vehicular access for No3 Holt Street over existing ROW (in favour of No.22 Ocean Ave)*
This is understood to be the case but remains an issue between the respective property owners and cannot be given determining weight in the consideration of the subject DA.
- *effect on sun, light and air*
The shadow diagrams indicate that the proposed extensions would have a negligible impact on the adjoining properties. Daylight and air circulation would remain similar to existing on both sides of the extension considering existing separation and proposed screen planting which will replace existing foliage along the side boundaries.
- *dilapidation report required*
The excavation proposed is minimal related to strip and pad footings for conventional domestic brick walls and suspended timber floor construction. A dilapidation report is not required for buildings on adjacent properties due to excavation or construction. A dilapidation survey is required as recommended by Councils Team Leader Development Engineer regarding the structural condition of the existing driveway in the ROW in the event that it is used for construction vehicle access (**see Condition No.39**).
- *loss of property value*
Refurbishment and extension of the subject dwelling should not cause a loss of property values in the area.
- *construction and emergency access to existing right of way*
This is addressed by a condition requiring a construction management plan (**see Condition No.28**).
- *acoustic impact during construction*
This is addressed by standard condition (**see Condition No.8**).
- *stormwater disposal.*
An easement for stormwater disposal is discussed elsewhere in this report. Stormwater disposal is also the subject of conditions (**see Condition Nos.21 and 22**).

The replacement application (as defined by Clause 90 of the *Environmental Planning and Assessment Regulation 2000*) was not renotified under clause 5.1 of the DCP because, having considered clause 9 of the DCP, the replacement application is substantially the same development as the original proposal and considered to have no greater environmental impact upon neighbours.

18.CONCLUSION - THE PUBLIC INTEREST

The proposal is acceptable against the relevant considerations under s79C and would not be contrary to the public interest.

19. RECOMMENDATION: 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. 371/2006 for alterations and additions to dwelling including new two storey rear wing and landscape works on land at 3 Holt Street Double Bay, subject to the following conditions:

1. Approved Plans

This consent relates to the work, shown in colour, on plans numbered WD 100, 101, 102, 201 and 202 Issue B, dated September 2006, drawn by Haiku_ 2, including unnumbered landscape plan , dated 2 October 2006, drawn by Myles Baldwin, all of which carry a Council stamp "*Approved DA Plans*" and the signature of a Council officer, except where amended by the following conditions.

2. Setback of north-west corner of existing building

The existing setback of the north-west corner of the building shall be maintained. The setback of the north-west corner of the extension of the rear facade shall be indented to provide a 500mm setback from the west side boundary. This condition is imposed to protect the amenity of the adjacent properties and to maintain existing access between the building and the western boundary. Details shall be submitted with the application for a construction certificate.

3. 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.

4. Drawings to show levels and heights

The reduced levels of the ground floor, first floor and the overall height of the roof in relation to Australian Height Datum must be shown on the drawings submitted with the Construction Certificate Application to ensure that building construction complies with the development consent. In this regard written certification by a registered surveyor is required to be submitted to confirm that the building complies with the maximum height limit of 9.5m.

5. 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.

6. 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.

7. Layout of buildings

The layout of all external walls 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 setbacks to the boundaries of the site.

8. Demolition, excavation and construction hours

Demolition, excavation 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.

9. 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.

10. Levels

For the purpose of indicating relative levels in terms of Australian Height Datum and boundary clearances, and to ensure that building construction complies with the development consent, survey certificates must be provided to the PCA in respect of the building/s layout and ground floor level/s prior to pouring of concrete or laying of timber floor boards.

11. 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.

12. 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.

13. Existing trees which must be retained

The following trees are to be retained on the site and protected during all works.

Trees on Private Property

Council Reference No:	Species	Location	Dimension (Metres)
2	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – North west corner	10 x 3
3	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – North west corner	8 x 3
5	<i>Livistonia australis</i> Cabbage Tree Palm	Rear – West boundary	3 x 3
6	2 x <i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – West boundary	8 x 3
9	3 x <i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – East boundary	8 x 3

The Construction Certificate plans must include reference to the retention of the above mentioned trees and identify the trees by Councils reference number (Ref No:) and colour or shade them in the colour green for trees to be retained and yellow for trees to be transplanted.

14. Trees which may be transplanted within the site

The following trees, which Council has requires to be retained, must be transplanted and successfully established elsewhere within the development site.

Council Reference No:	Species	Present Location	Required Location
2	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – North west corner	Rear
3	<i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – North west corner	Rear
5	<i>Livistonia australis</i> Cabbage Tree Palm	Rear – West boundary	Rear
6	2 x <i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – West boundary	Rear

The applicant is to pay for all costs associated with the transplanting of the abovementioned trees to a suitable alternate location on the subject site. The transplantation must be supervised by a qualified Arborist, Horticulturist or Landscape Technician experienced in transplantation.

A Transplantation Method Statement, detailing the following points, must be submitted for approval by Council prior to issue of a Construction Certificate.

- (i) Pre-transplantation schedule of works.
- (ii) Preparation of transplantation site.
- (iii) Transplantation method.
- (iv) Post-transplantation aftercare and duration.

The Statement is to be prepared by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 5 or recognised equivalent) or Horticulturist, who is experience in transplantation.

15. Trees which may be removed

This consent includes approval under Council's Tree Preservation Order to remove the following trees:

Council Reference No:	Species	Location	Dimension (Metres)
4	<i>Persea americana</i> Avocado	Rear – West boundary	10 x 8
7	<i>Schizolobium parahybum</i> Bacurubu	Rear – West boundary	12 x 3
8	<i>Strelitzia nicolai</i> Giant Bird of Paradise	Rear – West boundary	6 x 3

The Construction Certificate plans must include reference to the removal of the above mentioned trees and identify the trees by Council’s reference number (Council Ref No:) and colour or shade them in the colour red.

16. Replacement trees which must be planted

The following compensatory replacement plantings must be planted to ensure the preservation of the landscape character of the area.

Species/Type	Planting Location	Container Size or Size of Tree (@ time of planting)	Minimum Dimensions at Maturity
1 x <i>Archontophoenix alexandrae</i> Alexander Palm	Rear	400	10 x 3
2 x <i>Livistonia chinensis</i> Chinese Fan Palm	Rear	150	5 x 3
10 x <i>Bambusa vulgaris</i> ‘Vittata’	Rear	100	7 metres
1 x <i>Jacaranda mimosifolia</i> Jacaranda	Rear	400	10 x 6
2 x <i>Michelia doltsopa</i> Michelia	Rear	100	8 x 4
1 x <i>Glochidion ferdinandii</i> Cheese Tree	Rear	50	4 x 3

17. Tree Protection Zones

To limit the potential for damage to trees to be retained, Tree Protection Zones are to be established for all trees to be retained on site. The Tree Protection Zones are to comply with the following requirements;

- a) Tree Protection Zones are to be established within the specified radius from the trunks of the following trees;

Council Reference No:	Species	Location	Radius from Trunk (Metres)
9	3 x <i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – East boundary	1 m

- b) Tree Protection Zones are to be fenced with a 1.8 meter high chainmesh or weldmesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.

- c) Trunk protection, to the maximum height permitted by the first branches, is to be installed around the trunks of trees listed in the table below;

Council Reference No:	Species	Location
9	3 x <i>Archontophoenix cunninghamiana</i> Bangalow Palm	Rear – East boundary

A padding material eg. Hessian or thick carpet underlay, is to be wrapped around the trunk first. Harwood planks, 50x100mm and to the maximum possible length, are to be placed over the padding and around the trunk of the tree at 150mm centres. These planks are to be secured in place by 8 gauge wire at 300mm spacing.

- d) Installation of all Tree Protection measures is to be at the direction of and overseen by a qualified Arborist (minimum Australian Qualification Framework Level 4 or recognised equivalent).
- e) A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- f) Existing soil levels must be maintained within Tree Protection Zones. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (eg. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- g) Sediment control measures are to be installed around all Tree Protection Zones to protect the existing soil levels.
- h) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Zones.

Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

18. Amenity Landscaping

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

19. Landscaping

All landscape work including all planting must be completed by the *principal contractor* or *owner* in compliance with the approved landscape plan, arborist report, transplant method statement and tree management plan. The *principal contractor* or *owner* must provide to PCA a works-as-executed landscape plan and certification from a qualified landscape architect/designer, horticulturist and/or arborist as applicable that the works as completed comply with this consent.

20. Maintenance of Landscaping

All landscaping must be maintained in accordance with the approved landscape plans. Any alteration from that plan will require the prior written consent of Council.

21. Connection to existing drainage system

Stormwater run-off from the proposed addition must drain to the existing stormwater drainage system and as shown on the stormwater disposal concept plan prepared by Northrop Engineer Dwg No C01 Rev2 dated 10.07.06

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.

22. New drainage easement

The provision of a new drainage easement through the adjoining property at No.26 Cooper Street must comply with the requirements of Council's Draft Stormwater Drainage Management DCP (Draft Version 1, Public Exhibition Copy dated 23/08/2004), in particular Part 7 "Easements" and Easement Plan over SP 11137 by Hill & Blume P/L. All new stormwater drainage pipework discharging from the northern boundary of the property must be placed in the easement to connect to an approved discharge point in Cooper Street.

23. Erosion and sediment control

An erosion and sediment control plan, 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 prepared to show erosion and sediment control measures which are to be installed. The Plan must be submitted to Council or the accredited certifier for approval before commencement of excavation or construction work.

24. Compliance with erosion and sediment control plan

The erosion and sediment control plan must be implemented during site works and construction activities. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the accredited certifier and Council officers on request.

25. 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.

26. 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.

27. 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.

28. Construction management

A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:-

a. describe the anticipated impact of the construction works on:

- local traffic routes
- pedestrian circulation adjacent to the building site
- and on-street parking in the local area, and;

b. describe the means proposed to:

- manage construction works to minimise such impacts,
- provide for the standing of vehicles during construction,
- provide for the movement of trucks to and from the site, and deliveries to the site, and;

c. show the location of:

- any site sheds and any anticipated use of cranes and concrete pumps,
- any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

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

29. Compliance with the construction management plan

All excavation, demolition and construction work and traffic movements must be carried out in accordance with the approved construction management plan. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept on-site at all times and made available to the PCA or Council on request.

30. Work Zone

A Work Zone (Construction Zone) is required for this development the location and dimension are as specified by Council's Traffic Engineer. An application for the required Work Zone must be submitted to Woollahra Council's Local Traffic Committee prior to any Construction Certificate being issued. Prior to commencement of any demolition, land clearing, piling, piling, excavation, construction or like work or the issue of a Notice of Commencement, approval for the required Work Zone must have been obtained, payment of prescribed Permit Fees to Council and the Work Zone signs must have been erected by Council.

Note:

- The Woollahra Local Traffic Committee meets monthly.
- A minimum of eight weeks is required for assessment and determination of a Work Zone application.
- Should Council, following consideration by the Woollahra Local Traffic Committee, not approve of the installation of a Work Zone for the site, a Work Zone will not be required
- Failure to comply with this condition may result in fines and proceedings to stop work.

31. Damage security deposit

A security deposit of **\$8,000 (Eight thousand 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 estimated cost>\$100,000

Council may use all or part of the Damage Security Deposit to complete damage restoration works if they do not meet Council's requirements.

32. Footpath levels

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

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

- At the access to the ROW on Holt Street, construction of a new full width concrete driveway crossing 3.5m wide and layback in accordance with Council's Standard Drawing RF2. Levels in the footpath area must match existing.
- Reinstatement of footpath, kerb and gutter to match existing.

An "Application to carry out works in a public road" must be completed and submitted to Council's Customer Service Centre and approved by Council prior to commencement of construction of a new driveway. For any technical enquiries regarding alteration to existing footpath levels, alignments or inspections, please contact Council's Works Supervisor on 9391 7982.

38. 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.

39. 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 movement of construction vehicles. A practicing structural engineer must prepare a full dilapidation report on the structural condition of all existing structures at the following locations:

- The existing driveway in the ROW over No 20 Ocean Avenue

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.

40. Payment of Long Service Levy, Security, Development Levy and Fees

The person(s) with the benefit of this consent must pay the following long service levy, security, development levy, and fees prior to the issue of any *construction certificate*, *subdivision certificate* or *occupation certificate*, as will apply.

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. Specifically;

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

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit – Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$8,000	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy	\$3,000 + Index Amount	Yes, quarterly	T94

INSPECTION FEES			
under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$11,163		
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.

How will the section 94A levy be indexed?

To ensure that the value of the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2005 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

Please contact our customer service officers. Failure to correctly calculate the development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- a) the reasons given;
- b) whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c) whether any prejudice will be caused to the efficacy and operation of this plan; and
- d) whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

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

- 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.

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

41. Building & Construction Industry Long Service Payment

The Long Service Levy under Section 34 of the *Building & Construction Industry Long Service Payment Act, 1986*, must be paid and proof of payment provided to the *Certifying Authority* prior to the issue of any *Construction Certificate*.

Note: The Levy can be paid directly to the Long Services Payments Corporation or to Council.

Note: Further information can be obtained from the Long Service Payments Corporation's website <http://www.lspc.nsw.gov.au/> or by telephoning the Long Service Payments Corporation on 13 14 41.

42. Standard for demolition

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

43. 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.

44. Change of building use

- (a) A building in respect of which there is a change of building use must comply with the Category 1 fire safety provisions applicable to the proposed new use.

Note. The obligation under this condition to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in the relevant development consent.

- (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).

45. 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.

46. 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.

47. 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*.

Roger Hedstrom
ASSESSMENT OFFICER

Mark Schofield
TEAM LEADER

ADVISINGS

1. Other approvals

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.
- An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.

2. Works and requirements of other authorities

- *Sydney Water* may require the construction of additional works and/or the payment of additional fees. Other *Sydney Water* approvals may also be necessary prior to the commencement of construction work. You should therefore confer with *Sydney Water* concerning all plumbing works, including connections to mains, installation or alteration of systems, and construction over or near existing water and sewerage services.

Contact *Sydney Water*, Rockdale (Urban Development Section) regarding the water and sewerage services to this development.

3. Application for a Construction Certificate

The required Application for a Construction Certificate may be lodged with Council. Alternatively, you may apply to an accredited private certifier for a Construction Certificate.

<p>WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building work is a serious breach of Section 81A(2) of the <i>Environmental Planning & Assessment Act 1979</i>. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.</p>
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4. Occupational Health and Safety

All site works must comply with the occupational health and safety requirements of the NSW WorkCover Authority.

5. Relocation of stormwater drainage

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

6. Hazardous waste removal

Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of WorkCover and the EPA, and in accordance with the provisions of:

- New South Wales *Occupational Health and Safety Act, 1983*;
- New South Wales *Construction Safety Act, 1912; Regulation 84A-J Construction Work Involving Asbestos or Asbestos Cement 1983*;
- The *Occupational Health and Safety (Hazardous Substances) Regulation 1996*;
- The *Occupational Health and Safety (Asbestos Removal Work) Regulation 1996*;
- The *Waste Minimisation and Management Act and Regulations*.

7. Modifications to the consent

Changes to the external configuration of the building, changes to the site layout or any changes to the proposed operation or use *will* require the submission and approval of an application under Section 96 of the *Environmental Planning & Assessment Act 1979* before the issue of a Construction Certificate.

8. Tree preservation

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Municipality of Woollahra with a spread of branches greater than three (3) metres and also on all trees, irrespective of the spread of branches, with a height greater than five (5) metres. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except with the prior written consent of the council. Written consent from Council for such tree works must be in the form of a Tree Preservation Order Permit for Pruning or Removal of Protected Trees obtained from the Parks and Streetscape Section of Council.

9. Storage bins on footpath and roadway

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

10. Home Building Act insurance

Home Building Act Insurance must be obtained from an insurance company approved by the Department of Fair Trading prior to the commencement of demolition or construction work.

11. Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Mr R Hedstrom. However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing. This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed assessor having the full authority to completely determine the matter at the conference.

ANNEXURES

1. Plans, elevation and section
2. Technical Services response
3. Trees and Landscape response

APPLICATION ASSESSMENT PANEL

Meeting held on 13 February 2007

Item No. D3

MEMO TO ALL COUNCILLORS

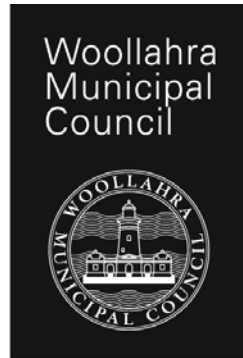
File No. DA 738/2006/1

Address 2-16 Bellevue Road BELLEVUE HILL 2023

Proposal Fitout of premises to facilitate its use as a green friendly dry cleaners

Date lodged 24/10/2006

Author MS B THOMAS – ASSESSMENT OFFICER



ABN 32 218 483 245

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Double Bay NSW 2028

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PO Box 61
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www.woollahra.nsw.gov.au

Telephone (02) 9391 7000
Facsimile (02) 9391 7044

Please note that Item D3 of the Application Assessment Panel meeting held on 6 February 2007 was resolved in the following terms:-

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.

Les Windle
Manager - Governance

DEVELOPMENT APPLICATION ASSESSMENT REPORT

ITEM No.	D3
FILE No.	DA 738/2006/1
PROPERTY DETAILS	2-16 Bellevue Road BELLEVUE HILL 2023
	Lot & DP No.: LOT: 0 SP: 74921
	Side of Street: North
	Site Area (m²): 2922
	Zoning: Neighbourhood Business 3(c)
PROPOSAL:	Fitout of premises to facilitate its use as a dry cleaners
TYPE OF CONSENT:	Local
APPLICANT:	Mr A Davies
OWNER:	The Proprietors of Strata Plan 74921 and PDP Bellevue Hill Pty Ltd
DATE LODGED:	24/10/2006
AUTHOR:	Ms B Thomas

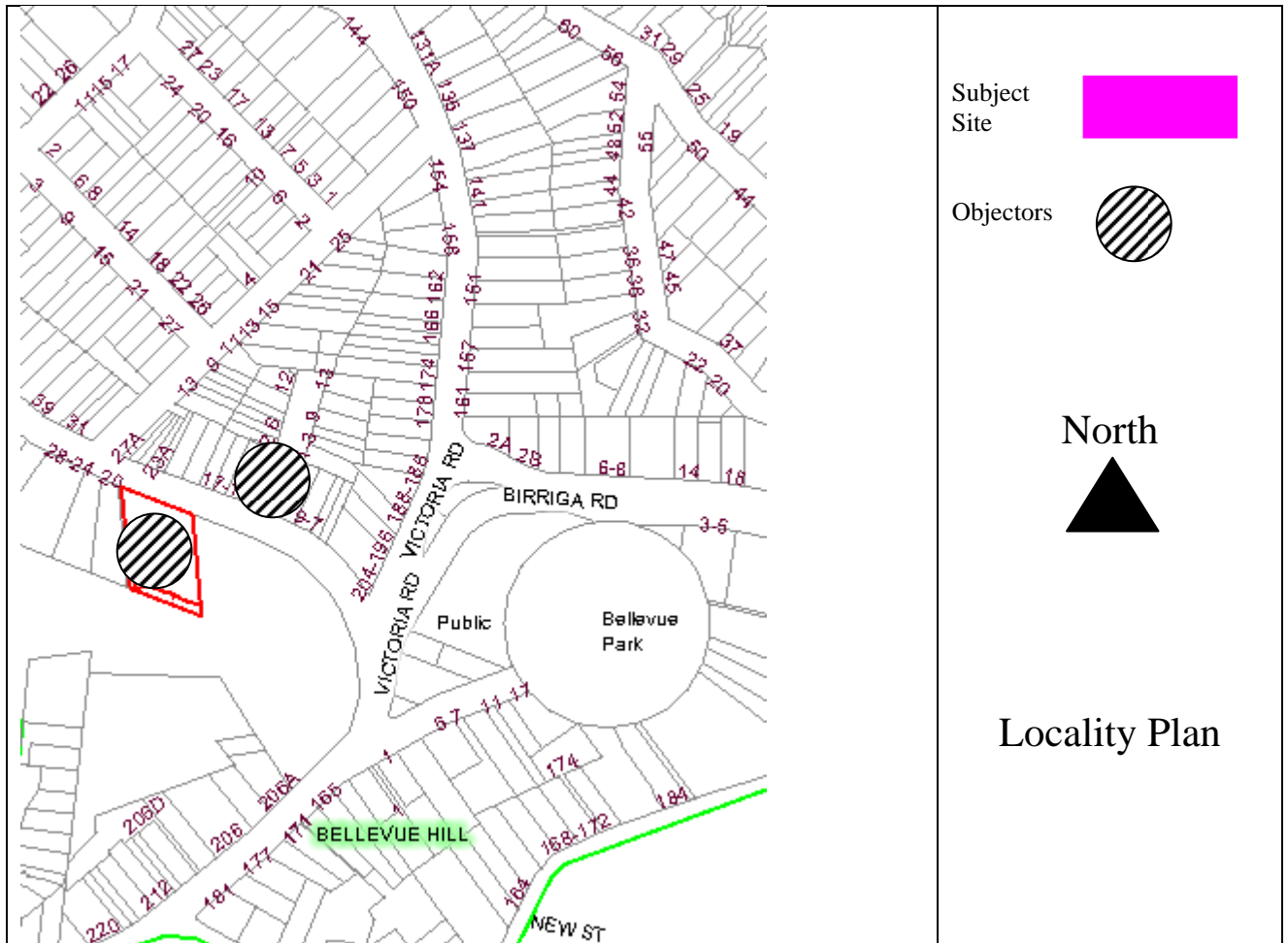
1. RECOMMENDATION PRECIS

It is recommended that approval be granted.

2. PROPOSAL PRECIS

Approval is sought for a fitout of the premises to facilitate its use as a dry cleaner.

3. LOCALITY PLAN



4. DESCRIPTION OF PROPOSAL

Approval is sought to install purpose built environmentally friendly garment cleaning machines to facilitate use of the premises as a dry cleaners. The operator uses the “Greenearth” solutions in the cleaning process. The applicant advises that the “Greenearth” solution differs from traditional drycleaners in that they do not use a chemical called perperchloroethylene in the cleaning process and that it has no environmental or health affects.

The premises are currently vacant and have not been occupied since construction of the building. Two parking spaces are available on site for staff.

The proposed hours of operation are Monday to Friday 7.30am-7.30pm, Saturday 8.00am-3.00pm and closed on Sundays.

5. SUMMARY

Reasons for report	Issues	Submissions
The DA does not satisfy the criteria for determination under staff delegation as there are unresolved objections.	Parking	5 submissions were received

6. ESTIMATED COST OF WORKS

The applicant has estimated the cost as being \$50 000. This figure has been checked using Councils adopted policy and is accurate.

7. DESCRIPTION OF SITE OF LOCALITY

THE SITE AND LOCALITY	
Physical features	The premises are located on the western side of Bellevue Hill Road, near to its intersection with Victoria Road. The premises are located on the ground floor of a recently constructed mixed use building.
Topography	Not applicable.
Existing buildings and structures	The premises are vacant and have not been occupied since construction of the building. There are apartments located above.
Environment	The site is located within the Bellevue Hill neighbourhood shopping centre..

8. PROPERTY HISTORY

PROPERTY HISTORY	
Current use	The premises are vacant.
Previous relevant applications	Development Application No. 416/2001/1 which was approved by Council on the 18 February 2002 granted consent to the demolition of the existing and erection of a new mixed use building containing three levels of car parking, retail tenancies fronting Bellevue Road, and 27 residential apartments. DA703/2004/1 which was approved on 5 th January 2005 granted consent for the strata subdivision of the building into 26 residential units and 5 retail shops.
Pre-DA	No Pre-DA was held.
Requests for additional information	Requests for additional information regarding hours of operation, mechanical ventilation systems, waste storage facilities, noise and wastewater information was required.
Amended plans/ Replacement Application	No amended plans were provided.
Land & Environment Court appeal	There is no current appeal.

9. REFERRALS

9.1 The following table contains particulars of internal referrals.

INTERNAL REFERRALS		
Referral Officer	Comment	Annexure
Environmental Health Officer	No objection subject to conditions of consent (refer to conditions 8,9,10,11,12)	2
Fire Safety Officer	No objection subject to conditions of consent (refer to condition 7)	3

9.2 The following table contains particulars of external referrals.

Not relevant.

ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* are assessed under the following headings:

10. RELEVANT STATE/REGIONAL INSTRUMENTS AND LEGISLATION

10.1 SEPPs

State Environmental Planning Policy No.55

Under clause 7 (1) (a) of State Environmental Planning Policy No.55-Remediation of Land, consideration has been given as to whether the land is contaminated. The premises are part of a new building and have not been previously occupied. No further consideration is required under Clause 7(1)(b) and (c) of SEPP 55.

10.2 REPs

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The land is within the Sydney Harbour catchment but is outside of the Foreshores and Waterways Area and therefore there are no specific matters for consideration.

10.3 Section 94A contribution

The cost of works is below \$100 000 and in accordance with the direction given by the Minister for Planning under section 94E of the Environmental Planning and Assessment Act 1979 on 10 November 2006, Council is unable to levy for a contribution.

10.4 Other relevant legislation

None relevant.

11. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

11.1 Aims and objectives of WLEP 1995 and zone (Clause 8(5))

The proposal is permissible and is consistent with the aims and objectives of the LEP and the relevant objectives of the 3(c) zone.

11.2 Statutory compliance table

The statutory compliance table is not required due to the nature of the application.

11.3 Site area requirements

The site area will not change.

11.4 Height

The proposed works comply with the height control.

11.5 Floor space ratio

No change in floor space ratio is proposed.

11.7 Other special clauses/development standards

Clause 18 Excavation: No excavation is proposed.

Clause 19 HFSPA: The site is not located with the Harbour Foreshore Scenic Protection Area.

Clause 24 Land adjoining public open space: This site adjoins Cooper Park at its rear. The subject premises are located on the northern side of the building and are separated from the park by the main body of the building. Subject to compliance with the conditions of consent, the development will not have any unreasonable impact on the amenity of the public open space.

Clause 25 Water, wastewater and stormwater: The proposal is acceptable in terms of Clause 25(1) and (2).

Clause 25D Acid Sulphate Soils: The proposed works do not require the need for an assessment of Acid Sulphate Soils under Clause 25D of Woollahra LEP 1995.

Clauses 26-33 Heritage and conservation area provisions: The site is not a heritage item, is not located within the vicinity of an item, nor is it located with a conservation area.

12. DRAFT AMENDMENTS TO STATUTORY CONTROLS

None applicable.

13. DEVELOPMENT CONTROL PLANS

13.1 Numeric Compliance table - Woollahra Residential Development Control Plan 2003

The compliance table is not required due to the nature of the application.

Site analysis performance criteria (*Part 3*)

The site is located within the Bellevue Hill neighbourhood shopping centre. Opposite the site is a row of retail shops consisting of uses such as, pasta shop, an automatic teller machine, a fruit and vegetable shop and florist. The dry cleaners would be conducive to the surrounding neighbourhood character and would respond well to the urban form.

Desired future precinct character objectives and performance criteria (*Part 4*)

The proposed development respects and enhances the existing local character within the Bellevue Hill South precinct. The proposed use as a dry cleaner will contribute to the area.

Streetscape performance criteria (*Section 5.1*)

The proposal addresses the street by having an entry which is readily apparent from the street.

Building size and location performance criteria (*Section 5.2*)

The proposed works do not change the form of the building.

Acoustic and visual privacy performance criteria (Section 5.8)

The proposed works do not create any opportunity for greater overlooking of any neighbouring property.

Councils Environmental Health Officer has assessed the proposal and is satisfied that the development will have an acceptable impact subject to the requirements of conditions 8 and 9.

Car parking and driveways performance criteria (Section 5.9)

Please refer to Section 13.4.

Mixed development in business zones performance criteria (Section 5.12)

The proposed use is at ground level of a mixed use development, there will be interaction between pedestrians and shopfronts. Pedestrians will be able to view straight into the dry cleaners through the window, maintaining an active street frontage.

Access and mobility performance criteria (Section 5.13)

The proposal has an appropriate level of access.

13.2 DCP for off-street car parking provision and servicing facilities

There are two car parking spaces available on-site.

Table 2.6-Entertainment, Recreation & Personal Services dry cleaners requires 4.5 spaces per 100m². The gross floor area is 86m² generating a requirement for four (4) car parking spaces. The parking requirement is reduced by the car parking multipliers of 0.7 which applies to the development. The overall car parking requirement is three (3) car parking spaces leaving a shortfall of one (1) car parking space.

Due to the nature of the use as a dry cleaner, customers would generally stay for a period of no longer than 15minutes if only using the dry cleaner. Customers would most likely visit the dry cleaners in combination with other shopping means, causing minimal additional demand.

The proposal is considered to be supportive of the relevant objectives of the DCP for off-street car parking.

13.3 Woollahra Access

The proposal has an appropriate level of access.

13.4 Other DCPs, codes and policies

No other DCPs, codes and policies are relevant.

14. APPLICABLE REGULATIONS

Not applicable.

15. THE LIKELY IMPACTS OF THE PROPOSAL

Signage has not been proposed within this development. All likely impacts of the proposal have been assessed elsewhere in this report.

16. THE SUITABILITY OF THE SITE

The site is suitable for the proposed development.

17. SUBMISSIONS

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP.

5 submissions were received from:

Tailer Investments Pty Ltd
560 New South Head Road
Double Bay, N.S.W 2028

Professor Les Copeland and Eva Copeland
10/8 Bellevue Rd
Bellevue Hill.

Stasha Berger
22/2-16 Bellevue Road
Bellevue Hill

Jae Young Yun
3/817 Sussex Street
Sydney 2000

Anatoly Kitayenko owner of shop
4/13 Bellevue Road
Bellevue Hill

The objectors raised the following issues:

- Fumes
- Noise
- Storage
- No need for another dry cleaner
- Bordering park land
- No credibility for Green Earth cleaning
- Parking
- Increase water usage
- Local traffic increase

Comment

Fumes

The equipment only produces a small amount of heat which will not require the installation of a mechanical ventilation system therefore fumes would have minimal impact. Condition 11 is imposed to control air emissions.

Noise

Conditions 10 and 11 have been imposed to protect the amenity of the neighbourhood against the transmission of offensive noise. Please see conditions.

Storage

The machine sits in a "spill tray" and generally the solvent is not stored outside of the machine.

No need for another dry cleaner

Development applications cannot be assessed on the commercial viability of a proposal.

Bordering park land

Refer to Section 11.7 of the report.

No credibility for green earth cleaning

It is not Councils role to assess the merits of the Greenerth products.

Parking

Please refer to Section 13.4.

Increase water usage

Water usage is a matter governed by the State government. Council is unaware of any direction by the state government to prevent this type of use on the basis of its water usage.

Local traffic increase

The location of the premises is within a local shopping centre, the increase in local traffic will be minimal as the nature of the drycleaners will be drop off and pick up service.

18. CONCLUSION - THE PUBLIC INTEREST

The proposal is acceptable against the relevant considerations under s79C and would be in the public interest.

19. RECOMMENDATION: 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. 738/2006 for fitout of premises to facilitate its use as a green friendly dry cleaners on land at 2-16 Bellevue Road Bellevue Hill, subject to the following conditions:

1. Approved Plans

The development must be carried out in accordance with plans for Shop 4, dated received 24th October 2006 drawn by Ray White Commercial Eastern Suburbs, all 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:

- (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.

3. 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.

4. Hours of operation

The hours of operation are limited to the following:

Monday to Friday	7.30am-7.30pm
Saturday	8.00am-3.00pm
Sunday	Closed

5. Payment of Long Service Levy, Security, Development Levy and Fees

The person(s) with the benefit of this consent must pay the following long service levy, security, development levy, and fees prior to the issue of any *construction certificate*, *subdivision certificate* or *occupation certificate*, as will apply.

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. Specifically;

- 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.

Description	Amount	Indexed	Council Fee Code
LONG SERVICE LEVY under Building and Construction Industry Long Service Payments Act 1986			
Long Service Levy Use Calculator: http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm	Contact LSL Corporation or use their online calculator	No	
SECURITY under section 80A(6) of the Environmental Planning and Assessment Act 1979			
Property Damage Security Deposit - Making good any damage caused to any property of the <i>Council</i> as a consequence of the doing of anything to which the consent relates.	\$2000	No	T600
DEVELOPMENT LEVY under Woollahra Section 94A Development Contributions Plan 2005 This plan may be inspected at Woollahra Council or downloaded from our website www.woollahra.nsw.gov.au .			
Development Levy	\$175+ Index Amount	Yes, quarterly	T94
INSPECTION FEES under section 608 of the Local Government Act 1993			
Security Administration Fee	\$163	No	T16
TOTAL SECURITY, CONTRIBUTIONS, LEVIES AND FEES	\$2338 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.

How will the section 94A levy be indexed?

To ensure that the value of the development levy is not eroded over time by increases in costs, the proposed cost of carrying out development (from which the development levy is calculated) will be indexed either annually or quarterly (see table above). Clause 3.13 of the Woollahra Section 94A Development Contributions Plan 2005 sets out the formula and index to be used in adjusting the s.94A levy.

Do you need HELP indexing the levy?

Please contact our customer service officers. Failure to correctly calculate the development levy will delay the issue of any Part 4A Certificate and could void any Part 4A Certificate (construction certificate, subdivision certificate, or occupation certificate).

Deferred periodic payment of section 94A levy under the Woollahra Section 94A Development Contributions Plan 2005

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- a) the reasons given;
- b) whether any prejudice will be caused to the community deriving benefit from the public facilities;
- c) whether any prejudice will be caused to the efficacy and operation of this plan; and
- d) whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

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

- 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.

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13 of the plan. The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

6. 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.

7. Mechanical Ventilation or Air Conditioning Systems

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

Note: Clause 98 of the Regulation requires compliance with the BCA. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the Construction Certificate application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of [AS 1668.2](#). Standard Condition C59 (Autotext CC59)

8. Trade Waste

The applicant seek permission from Sydney Water for connection to Sydney Water's sewerage system for the discharge of wastewaters from the proposed development. A copy of the Wastewater permit being forwarded to Council prior to occupation of the premises. The applicant is referred to *Trade Waste Processes Website* at www.sydneywater.com.au.

9. Noise Emissions

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 139 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that noise from the operation of mechanical plant and equipment will not exceed the background noise level when measured at any boundary of the site. Where sound attenuation is required this must be detailed.

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

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

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

Standard Condition: C62 (Autotext CC62)

10. Offensive Noise

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

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

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) publish by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

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

Department of Environment and Conservation NSW, Noise Policy Section web page (www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Noise Control Regulation 2000* (www.legislation.nsw.gov.au).

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

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

11. Air Emissions

The use of the premises must not give rise to the emission of any air impurity or lead to the discharge of wastewaters causing “pollution” as defined in the *Protection of the Environment Operations Act 1997*.

Ms B Thomas
ASSESSMENT OFFICER

Mark Schofield
TEAM LEADER

ADVISINGS

1. Other approvals

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, including:

- an Application for Approval under Section 68 of the *Local Government Act 1993* for an activity under that Act, including the erection of a hoarding. All such applications must comply with the Building Code of Australia.
- an Application for Approval under Section 68 of the *Local Government Act 1993* for a Place of Public Entertainment. Further building work may also be required for this use in order to comply with the Building Code of Australia. If there is any doubt as to what constitutes "Public Entertainment" do not hesitate to contact Council's Fire Officer.
- an application for an Occupation Certificate under Section 109(C)(2) of the *Environmental Planning and Assessment Act 1979*.
- An application for an Occupation Certificate may be lodged with Council if the applicant has nominated Council as the Principal Certifying Authority.
- an Application for a Subdivision Certificate under Section 109(C)(1)(d) of the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- an Application for Strata Title Subdivision under the *Strata Schemes (Freehold Development) Act 1973*, if strata title subdivision of the development is proposed.

2. Signs

A separate Development Consent or Complying Development Certificate may need to be obtained prior to the erection of any advertising sign.

3. Appeal

Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact Belinda Thomas. However, if you wish to pursue your rights of appeal in the Land & Environment Court you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing. This approach is less adversarial, it achieves a quicker decision than would be the case through a full Court hearing and it can give rise to considerable cost and time savings for all parties involved. The use of the Section 34 Conference approach requires the appellant to agree, in writing, to the Court appointed assessor having the full authority to completely determine the matter at the conference.

ANNEXURES

1. Plans
2. Referral from Environmental Health
Referral from Fire Safety Officer.