

Additional Items

Agenda: *Application Assessment Panel*

Date: *Tuesday 3 June 2008*

Time: *3.00pm*

Items: *D9 to D10*

Application Assessment Panel

Outline of Meeting Protocol & Procedure:

- The Chairperson will call the Meeting to order and ask the Panel/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 Panel.
- If person(s) wish to address the Panel, 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 Panel 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 Panel 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 Panel Meeting to the Development Control Committee (DCC) by Councillors subject to the following requirements:

- Calling requires one Councillor
- A Councillor may call a matter by written or oral request by 3.00pm on the business day preceeding the meeting at which the item is listed
- A Councillor who is in attendance at the Application Assessment Panel meeting may call a matter at any time prior to the completion of the meeting by orally advising the Panel Chairperson.

Additional Items

Meeting Agenda

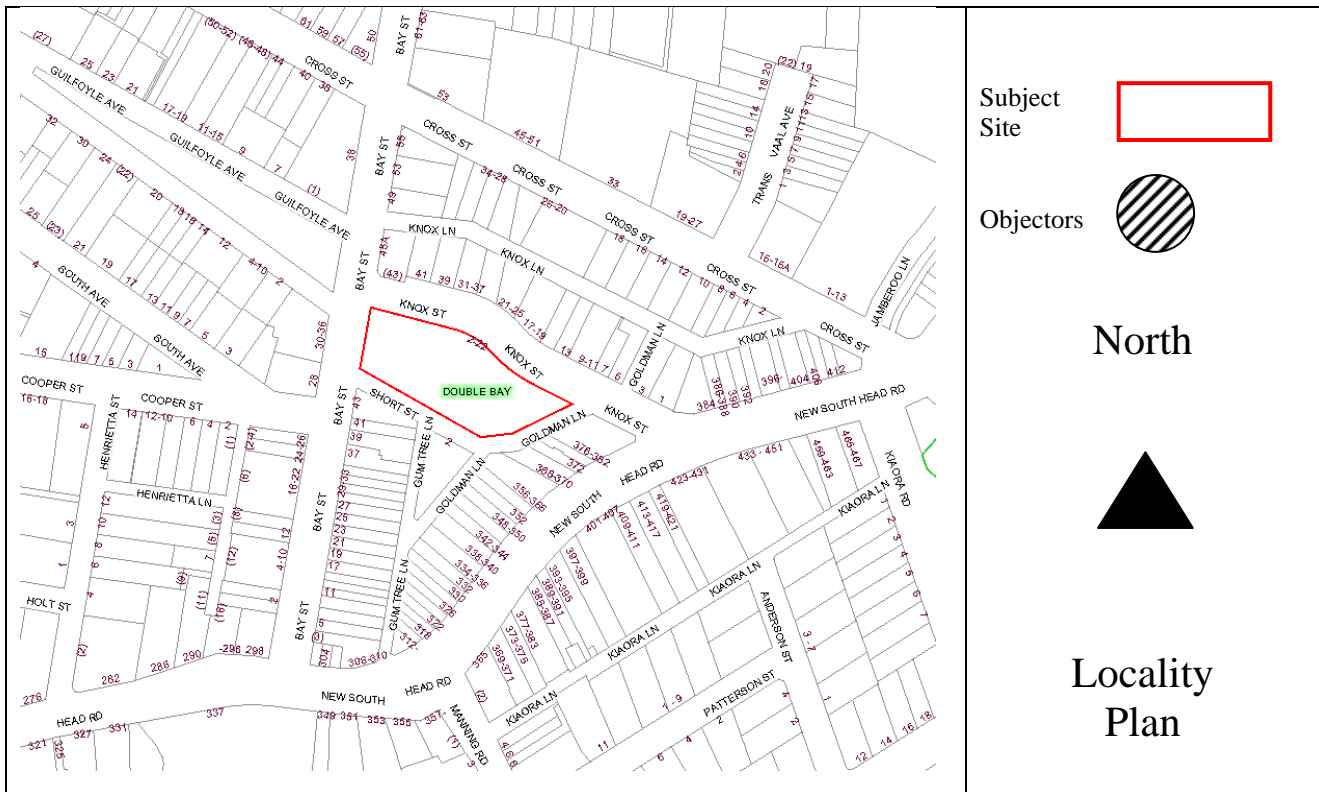
Part Four of Four Parts

Item	Subject	Pages
D9	DA950/2003 (Part 5) – 2-22 Knox Street, Double Bay – Section 96 modification of consent for demolition of hotel (levels 4, 5 and 6), refurbishment and construction of new ground floor retail premises, refurbishment of Level 2 public parking and community rooms and refurbishment of Level 3 carparking and construction of 28 residential apartments on Level 2 to 7 - 27/10/2007 *See Recommendation Page 465	456-491
D10	DA950/2003 (Part 6) – 2-22 Knox Street, Double Bay – Section 96 modification of consent for demolition of hotels (levels 4, 5 and 6), refurbishment and construction of new ground floor level retail premises, refurbishment of Level 2 public carparking and community rooms and refurbishment of Level 3 carparking and construction of 28 residential apartments on Levels 2 to 7 - 11/03/2008 *See Recommendation Page 499	492-512

SECTION 96 APPLICATION ASSESSMENT REPORT

ITEM No.	D9
FILE No.	DA 950/2003/5
ADDRESS:	2-22 Knox Street DOUBLE BAY
PROPOSAL:	<p>Section 96 modification of consent for demolition of hotel (levels 4, 5 and 6), refurbishment and construction of new ground level retail premises, refurbishment of Level 2 public parking and community rooms and refurbishment of Level 3 carparking and construction of 28 residential apartments on Levels 2 to 7, which includes:</p> <ul style="list-style-type: none">- modifications to car park screen- modifications to awnings and sun shades- modifications to skylights- modification to condition 2 regarding length of 3 car spaces- replacement of windows to a number of apartments with full length doors to provide access to terraces- minor internal layout changes- changes to floor levels (increase in height of building by 1mm)
TYPE OF CONSENT:	Local Development
APPLICANT:	Stamford Property Services
OWNER:	Woollahra Municipal Council
DATE LODGED:	27 October 2007 (Amended Plans lodged:21 January and 22 April 2008)
AUTHOR:	Mr G Goodyer

LOCALITY PLAN



1. SUMMARY

Reason for report

Council has engaged Symons Goodyer Pty Ltd, town planning consultants, to provide an independent assessment of this application to modify a consent, because the site is owned by Council and there is a potential conflict of interest in Council's dual roles as landowner and consent authority.

Issues

- Awning sun shades.
- Fire safety and Building Code of Australia
- Floor to ceiling heights

Objections

No objections were received to the proposal.

Recommendation

Approval

2. DESCRIPTION OF APPROVED PROPOSAL

- Demolition of existing hotel on Levels 4, 5 and 6
- Refurbishment of ground level retail premises
- Refurbishment of car parking on levels 2 and 3
- Refurbishment of community rooms on level 2
- Construction of 28 apartments on levels 2 - 6 (note: levels 4, 5 and 6 now renamed levels 5, 6 and 7)

3. DESCRIPTION OF PROPOSED MODIFICATION

- Details of sunshades under awnings modified
- Details of skylights modified
- Internal layout of a number of units modified
- Minor increases in the width of some of the terraces
- Half height windows changed to full height windows on a number of terraces
- Floor levels adjusted (increase of 1mm in building height)

The application as originally submitted sought approval to modify the colour and pattern of the car park screen. The applicant sent Council an email on the 2 April 2008 requesting that the car park screen be deleted from the application (**refer to condition 78**).

4. DESCRIPTION OF SITE AND LOCALITY

- The site is Lot 1 in DP 231324. The site has frontages to Knox Street to the north (106.0 metres), Bay Street to the west (32.0 metres), and Short Street and Goldman Lane to the south (116.0 metres). The site area is 3,606 m².
- The site is relatively level, with a total fall of 1.1 metres down to the north-western corner of the site.
- Existing on the site prior to commencement of development was a six-storey building. The ground floor was the Cosmopolitan Centre, a shopping arcade containing 25 retail/restaurant tenancies, the first floor a public car park and community rooms, the second floor a car park for the Sir Stamford Hotel, which is a 73-room hotel occupying the top three floors of the building.
- The building was constructed in the 1960's and contained a total of 180 car parking spaces and a gross floor area of 8,257m², measured in accordance with the definition of Woollahra LEP 1995 and ranged in height from 8.5 metres to 20.7 metres (RL 23.82).
- The site is located within the Double Bay Centre.

5. PROPERTY HISTORY

30.8.2004	Original DA approved (see details above)
15.10.2004	Modification 1 approved (minor)
16.5.2005	Modification 2 approved (3 additional car spaces, reduction in Unit 3C)
21.8.2007	Modification 3 approved (changes to facades, reconfiguration of retail level, reconfiguration of apartment layouts, changes to communal open space, changes to car park)
26.10.2007	Modification 4 lodged (subject of this report)
11.3.2008	Modification 5 lodged (increase in building height)

6. REFERRALS

6.1 Comments from external approval bodies

No external referrals were required.

6.2 Building

Council's Fire Safety Officer has requested that the following condition be added to the development consent:

"1. Pursuant to clause 94 of the Environmental Planning and Assessment Regulation 2000 Council as the consent authority requires the building to be brought into total conformity with the Building Code of Australia as the measures contained in the building are inadequate to protect persons using the building, and to facilitate their egress from the building, in the event of fire, and to restrict the spread of fire from the building to other buildings nearby.

Any alternative solution utilized in the building to achieve compliance with the Building Code of Australia shall be documented and submitted to the Council with the occupation certificate.

Advice :

- (a) It is brought to the applicant's attention that the location of the proposed rooflights will not comply with BCA Specification C1.1 (3.6) that requires 3m separation between rooflights of adjoining sole occupancy units where the roof is required to be non combustible*
- (b) The Principal Certifying Authority shall submit to Council a fire safety schedule indicating fire safety measures to be installed within the building. The fire safety schedule shall be submitted with the notice of proposed commencement required by (s) 81A of the Environmental Planning and Assessment Act 1979 no later than 2 days prior the beginning of any work.*
- (c) A copy of the final fire safety certificate shall be submitted to the Council with the occupation certificate and then also to the Commissioner of the New South Wales Fire Brigades and displayed within the building as soon as practical after the completion of the works.*
- (d) Within 12 months after the final fire safety certificate is issued an annual fire safety statement dealing with each essential fire safety measure in the building shall be submitted to council, the Commissioner of the New South Wales Fire Brigades and displayed in the building in accordance with the requirements of Clause 177 of the Environmental Planning and Assessment Regulation 2000."*

Town planning comments:

Council has limited powers in terms of applying conditions to an approval to modify a consent under Section 96. The Land and Environment Court has determined these limitations to be that the conditions can only relate to the impacts of the modification that is being

sought, including cumulative impacts of those modifications combined with the impacts of the original consent (*1643 Pittwater Road Pty Ltd v Pittwater Council* [2004] NSWLEC 685).

In this case, the requirement for the existing building to be upgraded so that it is brought into total conformity with the Building Code of Australia was not a condition of the original consent and it is not a requirement that arises from the modifications proposed in the current application. Consequently, Council is unable to impose the full condition as recommended by the Fire Safety Officer.

6.3 Health

No objections or conditions.

6.4 Heritage

N/A

6.5 Urban Design

Council's Urban Designer has made the following comments:

“Back ground

This project is the subject of a section 96 application 05 Mar 08 (S96). As part of this application and as the result of discussion regarding the Knox Street elevation treatment of the Cosmopolitan Centre redevelopment, the applicant has submitted drawings of a revised treatment.

The two areas that I felt the previously tabled design ideas contained in the S96 required development were the car park screening and the under awning sun shading. All other concerns in the S96 have been addressed satisfactorily.

I understand that the application has removed from pending the S96, the proposed car park screen treatment on all the elevations. The screen is as shown in the approved DA and conditions.

Information received

The under awning sun screens are still a part of the pending S96 application. The present proposal breaks the sun screen into a series of straight sections. This configuration is shown on drawings DA30 / A, DA 31 / A and DA 32 / A dated 18 April 2008.

Conclusion

The information received satisfactorily addresses the urban design concerns with the under awning shading. The S96 is satisfactory from an urban design perspective.”

6.6 Technical Services

Councils Development Engineer has reviewed the application and has not raised any objection to the development.

ASSESSMENT UNDER S96

7. Assessment Under S96

7.1 S96 (1) Correction of minor error, misdescription or miscalculation

Not applicable.

7.2 S96 (1A) Modification involving minimal environmental impact

The proposal involves changes which, in the context of the development and the surrounding area, are minor and result in minimal environmental impact.

7.3 S96 (2) Other modifications

Not applicable.

7.4 S96AA Modification of a consent granted by the Court

Not applicable.

7.5 Substantially the same development

The proposal remains substantially the same as that which was originally consented to, being the redevelopment of the existing building, including the demolition of the 3-level hotel and its replacement with 3 levels of apartments, together with the substantial refurbishment of the existing lower 3 levels of retail, car parking and community rooms.

7.6 S96 (2) (b) Consultation with Minister, public authority or approval body

Not applicable.

7.7 Threatened species

Not applicable.

ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* as required by Section 96 (3) of the Act are assessed under the following headings:

8. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

8.1 SEPPs

SEPP 65 - Design Quality of Residential Flat Buildings

The proposed modification does not change in any perceptible way the performance of the building under the 10 Design Principles in SEPP 65.

It is noted that the floor-to-floor dimensions of the proposed apartments is 2.9 metres. It is considered appropriate for a minimum floor-to-ceiling height of 2.7 metres to be maintained, as required by the *Residential Flat Design Code* and the *Double Bay Centre DCP*. This may be addressed by a condition of consent.

8.2 REPs

None applicable.

8.3 Additional Section 94 Contribution

The proposal does not increase the number of units or the number bedrooms in any of the units, so no additional section 94 contribution is required under the Woollahra Section 94 Contributions Plan 2002.

8.4 Other legislation

None applicable.

9. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

9.1 Aims and objectives of WLEP 1995 and zone

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

9.2 Statutory compliance table

Site Area (3,606m ²)	Proposed	Control	Complies
Floor Space Ratio (m ²)	2.5:1 (9,016 m ²)	2.5:1 (9,016 m ²)	YES

9.3 Other special clauses/development standards

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

Clause 19 HFSPA: The proposal is acceptable in terms of Clause 19(2).

Clause 24 Land adjoining public open space: The proposal is acceptable in terms of Clause 24(2).

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.

10. DRAFT AMENDMENTS TO STATUTORY CONTROLS

None applicable.

11. DEVELOPMENT CONTROL PLANS

11.1 Compliance table - Double Bay Centre DCP 2002

Site Area (3,606m ²)	Existing	Proposed Modification	Control	Complies
Max Building Height (metres)	20.7 metres (6 storeys)	20.71 metres (6 storeys)	16.5 metres (5 storeys)	NO
Minimum Ceiling Height (metres)	-	2.7	2.7	YES cond
Continuous Awning	-	Provided	Required	YES

Street character strategies

The changes to the facades of the building have been assessed by Council's Urban Design Advisor and found to be acceptable.

Building height

The proposal involves increasing the height of the building by 1mm. the existing building does not comply with the relevant height control and the additional 1mm will be imperceptible in terms of the bulk and scale of the building. Consequently, no objections are raised to the proposed minor increase in building height.

Awnings

The proposed sunshade devices have been architecturally designed and are considered to complement the design of the building and the streetscape. They are considered to be a superior design option to the canvas blinds which are permitted under the DCP.

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

The development does not change the parking configuration, allocation or requirements.

11.3 Other DCPs, codes and policies

None applicable

12. APPLICABLE REGULATIONS

See the comments from Council's Fire Safety Officer above in relation to clause 94 of the Environmental Planning and Assessment Regulation 2000.

13. THE LIKELY IMPACTS OF THE MODIFIED DEVELOPMENT

All likely impacts of the proposal have been assessed elsewhere in this report.

14. SUBMISSIONS

The proposal was advertised and notified in accordance with Council's Advertising and Notifications DCP. No submissions were received.

15. CONCLUSION - THE PUBLIC INTEREST

The proposal is unacceptable against the relevant considerations under S96 and S79C and would be in the public interest

16. RECOMMENDATION: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT Council, as the consent authority, modify development consent to Development Application No. DA 950/2003/5 for Section 96 Modification on land at 2-22 Knox Street DOUBLE BAY, in the following manner:

A. The deletion of Condition No. 1 and its replacement with the following:

1. The development must be carried out in accordance with the following plans, all of which carry a Council stamp “**Approved DA Plans**”, and as amended by the works shown as clouded on the Section 96 Application drawings, which carry a Council stamp “**Approved S96 Plans**” and the signature of a Council officer, except where amended by the following conditions:

Approved DA Plans

Drawing No.	Issue	Dated	Details	Drawn by
5130DA01	C	23-Feb-04	Level 1 (Ground) Plan	Kann Finch Group
5130DA02	C	23-Feb-04	Level 2 Plan	Kann Finch Group
5130DA03	C	23-Feb-04	Level 3 Plan	Kann Finch Group
5130DA04	C	23-Feb-04	Level 5 Plan	Kann Finch Group
5130DA05	C	23-Feb-04	Level 6 Plan	Kann Finch Group
5130DA06	C	23-Feb-04	Level 7 Plan	Kann Finch Group
5130DA07	C	23-Feb-04	Roof plan	Kann Finch Group
5130DA08	E	10-Mar-04	Elevations	Kann Finch Group
5130DA09	-	29-Oct-03	Sections	Kann Finch Group
5130DA10	-	29-Oct-03	Sections	Kann Finch Group
5130DA11	E	10-Mar-04	Detailed façade sketch - northern aspect	Kann Finch Group
5130DA12	E	10-Mar-04	Detailed façade sketch - western aspect	Kann Finch Group
5130DA13	E	10-Mar-04	Detailed façade sketch - southern aspects	Kann Finch Group
5130DA14	E	10-Mar-04	Detailed façade sketch - south eastern aspect	Kann Finch Group
5130DA15	-	13-Jan-04	Skylight Corridor Sketch	Kann Finch Group
5130DA16	-	13-Jan-04	Skylight living room sketch	Kann Finch Group
2130DA17	-	13-Jan-04	Skylight bathroom sketch	Kann Finch Group
5130DA18	-	13-Jan-04	Typical planter box detail	Kann Finch Group
5130DA19	-	13-Jan-04	Typical planter box detail	Kann Finch Group
5130DA20	-	16-Jan-04	Revised scheme axonometrics	Kann Finch Group
5130DA21	-	16-Jan-04	East escape stair section	Kann Finch Group

Approved S96 Plans

Drawing No.	Issue	Dated	Details	Drawn by
5130DA01	R	23-Oct-07	Level 1 (Ground) Plan	Kann Finch Group
5130DA02	Q	17-Jan-08	Level 2 Plan	Kann Finch Group
5130DA03	N	17-Jan-08	Level 3 Plan	Kann Finch Group
5130DA04	L	17-Jan-08	Level 5 Plan	Kann Finch Group
5130DA05	L	17-Jan-08	Level 6 Plan	Kann Finch Group
5130DA06	L	17-Jan-08	Level 7 Plan	Kann Finch Group
5130DA07	J	17-Jan-08	Roof plan	Kann Finch Group
5130DA08	K	17-Jan-08	Elevations	Kann Finch Group
5130DA09	E	17-Jan-08	Sections	Kann Finch Group
5130DA10	E	17-Jan-08	Sections	Kann Finch Group
5130DA11	J	17-Jan-08	Detailed façade sketch - northern aspect	Kann Finch Group
5130DA12	J	17-Jan-08	Detailed façade sketch - western aspect	Kann Finch Group
5130DA13	J	17-Jan-08	Detailed façade sketch - southern aspects	Kann Finch Group
5130DA14	K	17-Jan-08	Detailed façade sketch - south eastern aspect	Kann Finch Group
5130DA15			Deleted	Kann Finch Group
5130DA16	A	23-Oct-07	Skylight: hallway	Kann Finch Group
2130DA17	B	17-Jan-08	Skylight: bathroom	Kann Finch Group
5130DA21			Deleted	Kann Finch Group
5130DA25	A	17-Jan-08	Perspective Knox Street	Kann Finch Group
5130DA26	A	17-Jan-08	Perspective Cnr Knox & Bay Streets	Kann Finch Group
5130DA27	A	17-Jan-08	Perspective Knox Street Cafe	Kann Finch Group
5130DA30	A	18-Apr-08	Level 1 awning sunshade plan	Kann Finch Group
5130DA31	A	18-Apr-08	Level 1 awning sunshade elevation	Kann Finch Group
5130DA32	A	18-Apr-08	Level 1 awning sunshade details	Kann Finch Group

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A6

B. The deletion of Condition No. 2 and its replacement with the following:

2. Car Parking Spaces 18, 19 and 20 on Level 3

Car parking spaces 18, 19 and 20 are to have a minimum internal length of 5.4 metres.

C. The addition of the following conditions:

76. Floor to ceiling heights in habitable rooms of apartments

A minimum floor-to-ceiling height of 2.7 metres is to be maintained in all living areas (i.e: kitchens, living rooms, dining rooms, family rooms), bedrooms and studies within the proposed apartments.

77. Screening to carpark

No approval is given or implied by this consent to any modifications to the originally approved design for the screening to the carpark. Amended plans which delete any reference to modifications being made to the carpark screens are to be submitted with the application for the Construction Certificate.

D. The addition of the following advising:

20. Rooflights to comply with Building Code of Australia

The location of the proposed rooflights are to comply with BCA Specification C1.1 (3.6) that requires 3m separation between rooflights of adjoining sole occupancy units where the roof is required to be non combustible.

Mr G Goodyer
PLANNING CONSULTANT

Mark Schofield
TEAM LEADER

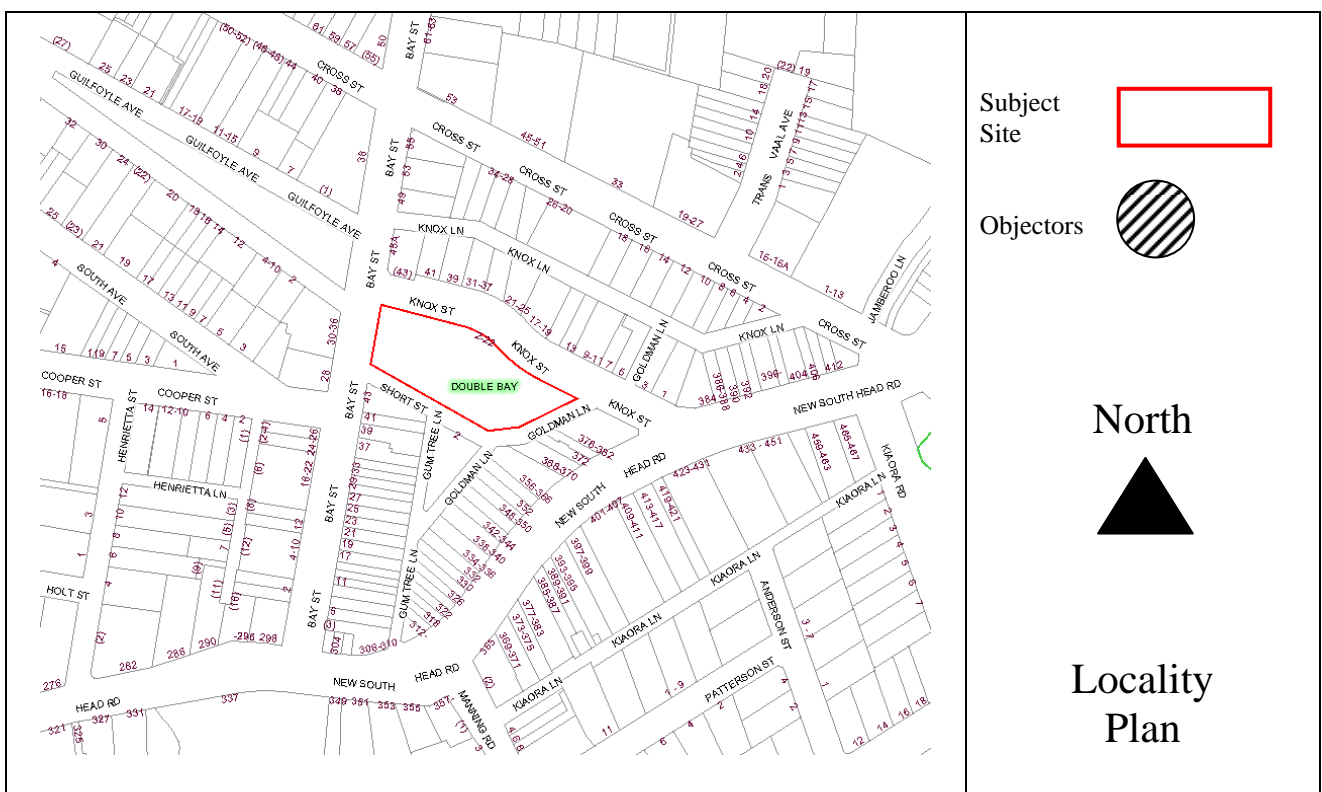
ANNEXURES

1. Plans and elevations

SECTION 96 APPLICATION ASSESSMENT REPORT

ITEM No.	D10
FILE No.	DA 950/2003/6
ADDRESS:	2-22 Knox Street DOUBLE BAY
PROPOSAL:	Section 96 modification of consent for demolition of hotel (levels 4, 5 and 6), refurbishment and construction of new ground level retail premises, refurbishment of Level 2 public parking and community rooms and refurbishment of Level 3 carparking and construction of 28 residential apartments on Levels 2 to 7, which includes: <ul style="list-style-type: none">- changes to floor levels- increase in height of building by 300mm- change to a portion of the roofing material
TYPE OF CONSENT:	Local Development
APPLICANT:	Gloxinia Investments Ltd
OWNER:	Woollahra Municipal Council
DATE LODGED:	11 March 2008
AUTHOR:	Mr G Goodyer (Planning Consultant)

LOCALITY PLAN



1. SUMMARY

Reason for report

Council has engaged Symons Goodyer Pty Ltd, town planning consultants, to provide an independent assessment of this application to modify a consent, because the site is owned by Council and there is a potential conflict of interest in Council's dual roles as landowner and consent authority.

Issues

- Building height, bulk and scale
- Floor to ceiling heights
- Finished surface materials

Objections

No objections were received to the proposal.

Recommendation

Approval.

2. DESCRIPTION OF APPROVED PROPOSAL

- Demolition of existing hotel on Levels 4, 5 and 6;
- Refurbishment of ground level retail premises;
- Refurbishment of car parking on levels 2 and 3;
- Refurbishment of community rooms on level 2, and;
- Construction of 28 apartments on levels 2 - 6 (note: levels 4, 5 and 6 now renamed levels 5, 6 and 7)

3. DESCRIPTION OF PROPOSED MODIFICATION

- Floor levels adjusted;
- Building height increased by 300mm generally; and
- Roof gravel covering changed from white to grey

4. DESCRIPTION OF SITE AND LOCALITY

- The site is Lot 1 in DP 231324. The site has frontages to Knox Street to the north (106.0 metres), Bay Street to the west (32.0 metres), and Short Street and Goldman Lane to the south (116.0 metres). The site area is 3,606 m².
- The site is relatively level, with a total fall of 1.1 metres down to the north-western corner of the site.
- Existing on the site prior to commencement of development was a six-storey building. The ground floor was the Cosmopolitan Centre, a shopping arcade containing 25 retail/restaurant tenancies, the first floor a public car park and community rooms, the second floor a car park for the Sir Stamford Hotel, which is a 73-room hotel occupying the top three floors of the building.

- The building was constructed in the 1960's and contained a total of 180 car parking spaces and a gross floor area of 8,257m², measured in accordance with the definition of Woollahra LEP 1995 and ranged in height from 8.5 metres to 20.7 metres (RL 23.82).
- The site is located within the Double Bay Centre.

5. PROPERTY HISTORY

30.8.2004	Original DA approved (see details above)
15.10.2004	Modification 1 approved (minor)
16.5.2005	Modification 2 approved (3 additional car spaces, reduction in Unit 3C)
21.8.2007	Modification 3 approved (changes to facades, reconfiguration of retail level, reconfiguration of apartment layouts, changes to communal open space, changes to car park)
26.10.2007	Modification 4 lodged (changes to facades, changes to awnings, internal layout changes, changes to floor levels)
11.3.2008	Modification 5 lodged (increase in building height - subject of this report)
10.4.2008	Construction Certifier prepared by Private Certifier issued to Council

6. REFERRALS

No referrals were required.

ASSESSMENT UNDER S96

7. Assessment under S96

7.1 S96 (1) Correction of minor error, misdescription or miscalculation

Not applicable.

7.2 S96 (1A) Modification involving minimal environmental impact

The proposal will have minimal environmental impacts relative to the approved development. The proposal will improve the energy efficiency of the building and provide better internal amenity through the improved residential floor-to-ceiling heights and efficient air-conditioning.

7.3 S96 (2) Other modifications

Not applicable.

7.4 S96AA Modification of a consent granted by the Court

Not applicable.

7.5 Substantially the same development

The proposal remains substantially the same as that which was originally consented to, being the redevelopment of the existing building, including the demolition of the 3-level hotel and its replacement with 3 levels of apartments, together with the substantial refurbishment of the existing lower 3 levels of retail, car parking and community rooms.

7.6 S96 (2) (b) Consultation with Minister, public authority or approval body

Not applicable.

7.7 Threatened species

Not applicable.

ENVIRONMENTAL ASSESSMENT UNDER S.79C

The relevant matters for consideration under section 79C of the *Environmental Planning and Assessment Act 1979* as required by Section 96 (3) of the Act are assessed under the following headings:

8. STATE/REGIONAL INSTRUMENTS AND LEGISLATION

8.1 SEPPs

SEPP 65 - Design Quality of Residential Flat Buildings

The proposed modification does not change in any perceptible way the performance of the building under the 10 Design Principles in SEPP 65.

It is noted that the floor-to-floor dimensions of the proposed apartments is increased from 2.9 metres to 3.1 metres, enabling a minimum floor-to-ceiling height of 2.7 metres to be maintained, as required by the *Residential Flat Design Code* and the *Double Bay Centre DCP*, and consistent with condition 76 of the consent (inserted as a condition of the most recent modification approval).

8.2 REPs

None applicable.

8.3 Additional Section 94 Contribution

The proposal does not increase the number of units or the number bedrooms in any of the units, so no additional section 94 contribution is required under the Woollahra Section 94 Contributions Plan 2002.

8.4 Other legislation

None applicable.

9. WOOLLAHRA LOCAL ENVIRONMENTAL PLAN 1995

9.1 Aims and objectives of WLEP 1995 and zone

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

9.2 Statutory compliance table

Site Area (3,606m ²)	Proposed	Control	Complies
Floor Space Ratio (m ²)	2.5:1 (9,016 m ²)	2.5:1 (9,016 m ²)	YES

9.3 Other special clauses/development standards

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

Clause 19 HFSPA: The proposal is acceptable in terms of Clause 19(2).

Clause 24 Land adjoining public open space: The proposal is acceptable in terms of Clause 24(2).

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.

10. DRAFT AMENDMENTS TO STATUTORY CONTROLS

None applicable.

11. DEVELOPMENT CONTROL PLANS

11.1 Compliance table - Double Bay Centre DCP 2002

Site Area (3,606m ²)	Existing	Proposed Modification	Control	Complies
Max Building Height (metres)	20.7 metres (6 storeys)	30.0 metres (6 storeys)	16.5 metres (5 storeys)	NO
Minimum Ceiling Height (metres)	-	2.7	2.7	YES

Building height

The proposal involves increasing the height of the building by 300mm. The existing building does not comply with the relevant height control and the additional 300mm will be imperceptible in terms of the bulk and scale of the building.

The additional height of the building will ensure that floor-to-ceiling heights of 2.7 metres can be maintained in living rooms and kitchens of all the proposed apartments. This is consistent with the “rule-of-thumb” in the Residential Flat Design Code (a consideration under SEPP 65) and the Double Bay Centre DCP.

The additional 300mm height will create some minor additional overshadowing over Short Street and Goldman Lane and the commercial properties to the south of the site. However, there are no residential properties affected and the minimal increase in overshadowing is not considered to be of such significance that it would warrant refusal of the modification application.

Consequently, no objections are raised to the proposed minor increase in building height.

Roof design

The proposal involves the replacement of the proposed white roof pebbles to 20-50mm Nepean River gravel. This will reduce glare from the roof (noting, however, that roof glare is not a significant issue due to the distance to any points that can actually view the roof). The project builder also has experience of white pebbles being collected by birds and posing a hazard if they are dropped on nearby skylights.

The Double Bay Centre DCP does not specify materials for roof finishes. The reduction in glare from roofing materials is appropriate and no objections are raised to the proposed change in roofing material.

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

The modification has no implications for the provision of off-street car parking and servicing facilities.

11.3 Other DCPs, codes and policies

None applicable

12. APPLICABLE REGULATIONS

See the comments from Council’s Fire Safety Officer above in relation to clause 94 of the Environmental Planning and Assessment Regulation 2000.

13. THE LIKELY IMPACTS OF THE MODIFIED DEVELOPMENT

All likely impacts of the proposal have been assessed elsewhere in this report.

14. SUBMISSIONS

The proposal was advertised and notified in accordance with Council’s Advertising and Notifications DCP. No submissions were received.

15. CONCLUSION - THE PUBLIC INTEREST

The proposal is unacceptable against the relevant considerations under S96 and S79C and would be in the public interest

16. RECOMMENDATION: Pursuant to Section 96 of the Environmental Planning and Assessment Act, 1979

THAT Council, as the consent authority, modify development consent to Development Application No. DA 950/2003/6 for Section 96 Modification on land at 2-22 Knox Street DOUBLE BAY, in the following manner:

A. The deletion of Condition No. 1 and its replacement with the following:

1. The development must be carried out in accordance with the following plans, all of which carry a Council stamp “**Approved DA Plans**”, and as amended by the works shown as clouded on the Section 96 Application drawings, which carry a Council stamp “**Approved S96 Plans**” and the signature of a Council officer, except where amended by the following conditions:

Approved DA Plans

Drawing No.	Issue	Dated	Details	Drawn by
5130DA01	C	23-Feb-04	Level 1 (Ground) Plan	Kann Finch Group
5130DA02	C	23-Feb-04	Level 2 Plan	Kann Finch Group
5130DA03	C	23-Feb-04	Level 3 Plan	Kann Finch Group
5130DA04	C	23-Feb-04	Level 5 Plan	Kann Finch Group
5130DA05	C	23-Feb-04	Level 6 Plan	Kann Finch Group
5130DA06	C	23-Feb-04	Level 7 Plan	Kann Finch Group
5130DA07	C	23-Feb-04	Roof plan	Kann Finch Group
5130DA08	E	10-Mar-04	Elevations	Kann Finch Group
5130DA09	-	29-Oct-03	Sections	Kann Finch Group
5130DA10	-	29-Oct-03	Sections	Kann Finch Group
5130DA11	E	10-Mar-04	Detailed façade sketch - northern aspect	Kann Finch Group
5130DA12	E	10-Mar-04	Detailed façade sketch - western aspect	Kann Finch Group
5130DA13	E	10-Mar-04	Detailed façade sketch - southern aspects	Kann Finch Group
5130DA14	E	10-Mar-04	Detailed façade sketch - south eastern aspect	Kann Finch Group
5130DA15	-	13-Jan-04	Skylight Corridor Sketch	Kann Finch Group
5130DA16	-	13-Jan-04	Skylight living room sketch	Kann Finch Group
2130DA17	-	13-Jan-04	Skylight bathroom sketch	Kann Finch Group
5130DA18	-	13-Jan-04	Typical planter box detail	Kann Finch Group
5130DA19	-	13-Jan-04	Typical planter box detail	Kann Finch Group
5130DA20	-	16-Jan-04	Revised scheme axonometrics	Kann Finch Group
5130DA21	-	16-Jan-04	East escape stair section	Kann Finch Group

Approved S96 Plans

Drawing No.	Issue	Dated	Details	Drawn by
5130DA01	R	23-Oct-07	Level 1 (Ground) Plan	Kann Finch Group
5130DA02	Q	17-Jan-08	Level 2 Plan	Kann Finch Group
5130DA03	N	17-Jan-08	Level 3 Plan	Kann Finch Group
5130DA04	M	4-Mar-08	Level 5 Plan	Kann Finch Group
5130DA05	M	4-Mar-08	Level 6 Plan	Kann Finch Group
5130DA06	M	4-Mar-08	Level 7 Plan	Kann Finch Group
5130DA07	K	4-Mar-08	Roof plan	Kann Finch Group
5130DA08	L	4-Mar-08	Elevations	Kann Finch Group
5130DA09	F	4-Mar-08	Sections	Kann Finch Group
5130DA10	F	4-Mar-08	Sections	Kann Finch Group
5130DA11	K	4-Mar-08	Detailed façade sketch - northern aspect	Kann Finch Group
5130DA12	K	4-Mar-08	Detailed façade sketch - western aspect	Kann Finch Group
5130DA13	K	4-Mar-08	Detailed façade sketch - southern aspects	Kann Finch Group
5130DA14	L	4-Mar-08	Detailed façade sketch - south eastern aspect	Kann Finch Group
5130DA15			Deleted	Kann Finch Group
5130DA16	A	23-Oct-07	Skylight: hallway	Kann Finch Group
2130DA17	B	17-Jan-08	Skylight: bathroom	Kann Finch Group
5130DA21			Deleted	Kann Finch Group
5130DA25	A	17-Jan-08	Perspective Knox Street	Kann Finch Group
5130DA26	A	17-Jan-08	Perspective Cnr Knox & Bay Streets	Kann Finch Group
5130DA27	A	17-Jan-08	Perspective Knox Street Cafe	Kann Finch Group
5130DA30	A	18-Apr-08	Level 1 awning sunshade plan	Kann Finch Group
5130DA31	A	18-Apr-08	Level 1 awning sunshade elevation	Kann Finch Group
5130DA32	A	18-Apr-08	Level 1 awning sunshade details	Kann Finch Group

Note: These plans and supporting documentation may be subject to conditions modifying the development imposed under section 80A(1)(g) of the *Act* (refer to conditions which must be satisfied prior to the issue of any *Construction Certificate*.)
Standard Condition: A6

B. The deletion of Condition No. 6 and its replacement with the following:

6. The colour, texture and substance of all external materials are to be in accordance with the sample board and related coloured elevations submitted to Council dated 10 March 2004 except where amended by the revised roof pebble material (Nepean Roof gravel) approved by Council on 3 June 2008.

Mr G Goodyer
PLANNING CONSULTANT

Mr M Schofield
TEAM LEADER

ANNEXURES

1. Plans and elevations