

**Summary of submissions**  
**Draft Woollahra Residential Development Control Plan 2003 (Amendment No.2)**  
**Exhibition period 29 June 2007-10 August 2007**

Author	Comment	Response
<p>Michael Rolfe  President  The Vaocluse  Progress  Association</p> <p>3 July 2007</p>	<p><i>Clause 1.2</i>  <i>Where this plan applies</i>  Desirable to add bed and breakfast accommodation to the list of residential uses. Also add to the main DCP.</p>	<p>Bed and breakfast accommodation can be added to the Draft DCP. The change to the principal DCP is beyond the scope of the amendments. The absence of a reference to bed and breakfast accommodation in the principal DCP is not a major issue because the use is, by definition under Woollahra LEP 1995, carried out in a dwelling-house. Dwelling-houses are specifically mentioned in the principal DCP.</p>
	<p><i>Clause 2.1.1</i>  <i>C5.3.5[within clause 5.3 Open space and landscaping]</i>  The phrase “do not impose or have unreasonable impacts” is not open to specific interpretation. It provides nothing in practical terms for designers or neighbours.</p>	<p>The relevant paragraph states:  Roof terraces and associated structures will only be considered where their size, location and design is such that they do not impose or have unreasonable impacts on adjoining properties (refer to Part 5.5 Views and Part 5.8 Visual and Acoustic Privacy)</p> <p>The paragraph provides a cross reference to clause 5.5 (Views) and clause 5.8 (Visual and Acoustic Privacy). These clauses contain proposed controls of a prescriptive nature. The language in the proposed paragraph is slightly contradictory and is not consistent with that used in the other proposed controls. The question of reasonableness would be addressed as part of the development application assessment. The paragraph could be altered to read:</p> <p>Roof terraces and associated structures will only be considered where their size, location and design is such that they do not impose or have unreasonable impacts on adjoining properties (refer to Part 5.5 Views and Part 5.8 Visual and Acoustic Privacy) <u>meet the requirements of clause 5.5 Views and clause 5.8 Visual and Acoustic Privacy, in particular C5.5.7 of clause 5.5 and C5.8.6, C5.8.9 and C5.8.10 of clause 5.8).</u></p>

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	<p><i>Clause 2.1.2</i>  <i>C.5.5.7[within clause 5.5 Views]</i>            Reference to sharing of views implies that some loss of neighbours' views is acceptable. The control fails to encourage developers to protect views.</p>	<p>The control is consistent with the approach taken in clause 5.5 Views. In regard to private views, the clause contains the following explanation.</p> <p style="padding-left: 40px;">“View sharing” concerns the equitable distribution of views between properties. The RDCP’s view sharing controls seek to strike a balance between facilitating new development while preserving, as far as practicable, access to views from surrounding properties.</p> <p>Because of their variable nature, the impact on views is assessed through the DA process on a case-by-case basis. The Council follows a detailed assessment process which includes the use of planning principles set down by the Land and Environment Court in <i>Tenacity Consulting v Warringah Council</i>. On this basis it is considered that the proposed control is acceptable.</p>
	<p><i>Clause 2.1.3</i>  <i>C5.8.6 and clause 2.1.4 – C5.8.9 [within clause 5.8 Acoustic and visual privacy]</i>            Development allowing views into bathrooms are usually considered undesirable. Bathrooms are not covered by reference to habitable rooms.</p>	<p>Bathrooms are not habitable rooms. Bathrooms are often on secondary elevations of the building and close to the boundary. Bathroom privacy is generally dealt with by obscure glass and other detailed privacy devices. It is considered to be overly restrictive to control overlooking of non-habitable rooms in urban situations.</p>
	<p><i>Clause 2.1.4</i>  <i>C5.8.10 [within clause 5.8 Acoustic and visual privacy]</i>            Roof terrace lighting should not be open to the sky. The requirement that the light source not be visible is not effective in shielding the neighbours from the light. The containment requirement should be strengthened.</p>	<p>Control 5.8.10 states:            Lighting on roof terraces must be at a low level, appropriately shaded and contained within the roof terrace area so that the light source is not visible from neighbouring properties. The lighting of roof terraces must be designed in compliance with AS 4282-1997.</p> <p>Complete containment of light from a lighting system installed on a roof terrace is arguably not an achievable objective. However, it is agreed that requiring a light source</p>

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		<p>to be not visible from neighbouring properties might not be a sufficient measure to control the impact of light. The requirement to comply with <i>Australian Standard 4382-1997 Control of obtrusive effects of outdoor lighting</i> imposes recognised measures to address the impact of light spillage. The Standard:</p> <p>....sets out guidelines for the control of the obtrusive effects of outdoor lighting except for [certain specified applications such as public lighting, lighting for advertising, cyclic or flashing systems and the environmental impact associated with the appearance of outdoor lighting systems]. It includes recommended limits for the relevant lighting parameters to control these effects. As the obtrusive effects of outdoor lighting are best controlled by appropriate design, the guidance given is primarily applicable to new installations; however, some advice is also provided on remedial measures that may be taken for existing installations.</p> <p>This Standard specifically refers to the potentially adverse effects of outdoor lighting on nearby residents (e.g. of dwellings such as houses, hotels, hospitals), users of adjacent roads (e.g. vehicle drivers, pedestrians, cyclists) and transport signalling systems (e.g. air, marine, rail), and on astronomical observations. (p.6)</p> <p>The proposed DCP control could be altered to read:</p> <p>Lighting <u>installations</u> on roof terraces must be:</p> <ul style="list-style-type: none"> <li>▪ contained within the roof terrace area and <u>located</u> at a low level <del>so that the light source is not visible from neighbouring properties</del></li> <li>▪ <u>appropriately shaded and fixed in a non-adjustable manner so that light is projected downwards onto the floor surface of the terrace.</u></li> </ul> <p>The lighting of roof terraces must be designed in compliance with <i>Australian Standard 4382-1997 Control of obtrusive effects of outdoor lighting</i>.</p>

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	<p><i>Clause 2.1.5</i>  <i>C5.9.19 [within clause Mechanical parking installations]</i>            Noise at night from car turntables and stackers is a series issue.</p>	<p>The amount of noise arising from use of car turntables and stackers is variable and is dependent of factors including their location on a site or within a building, their condition, and the frequency and time of use. Regulation of noise for mechanical plant can be addressed through the development assessment process and the use of conditions of development tailored to the circumstances of the proposal and its context.</p>
	<p>Use of stackers to meet car parking requirements is negated when the stacker platform is used for storage rather than car parking.</p>	<p>The argument may be extended to all forms of car parking. Alternate use of parking spaces, unless specifically authorised, would breach development consent.</p>
	<p><i>Clause 2.1.6</i>  <i>C5.10.11 [within clause 5.10 Site facilities]</i>            Requirements to minimise impacts do not encourage developers to arrange air conditioning so that it makes no noise for neighbours. Suggest that Council adopt by reference the approach to noise labelling requirements and time-limit protections provided in clauses 45 and 52 of the <i>Draft Protection of the Environment Operations (Noise Control) Regulation</i>.</p>	<p>The <i>Protection of the Environment Operations (Noise Control) Regulation</i> commenced on 1 March 2008.</p> <p>Clause 45 of the Regulation states:</p> <p><b>Labelling of domestic air conditioners</b>            A person must not sell a domestic air conditioner unless it has a noise label, securely attached to it in a conspicuous position, displaying the air conditioner's sound power level as determined in accordance with Part 5.</p> <p>Clause 52 of the Regulation states:</p> <p><b>Air conditioners and heat pump water heaters</b></p> <p>(1) A person must not cause or permit an air conditioner or heat pump water heater to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):</p> <p>(a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or</p>

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		<p>(b) before 7 am or after 10 pm on any other day.</p> <p>Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.</p> <p>(2) A person is not guilty of an offence under subclause (1) in relation to a heat pump water heater if the conduct alleged to give rise to the offence occurs within 6 months after the commencement of this Regulation.</p> <p>(3) A person is not guilty of an offence under subclause (1) unless:</p> <p>(a) the person has, within 7 days after causing or permitting an air conditioner or heat pump water heater to be used in such a manner, been warned by an authorised officer or enforcement officer not to cause or permit the air conditioner or heat pump water heater to be used in that manner, and</p> <p>(b) the person causes or permits an air conditioner or heat pump water heater to be used in that manner within 28 days after the warning has been given.</p> <p>(4) In this clause: <i>heat pump water heater</i> means a device that heats water using the energy generated from the compression of a gas</p> <p>The proposed control 5.10.11 addresses two issues; noise and visual impacts. To be more effective, we suggest several alterations to the control. First, separate controls for noise and visual impact should be created. Second, the issue of noise control should be aligned with the approach taken in the conditions of consent imposed for development applications. This approach requires noise attenuation measures which aim to ensure that the device does not exceed the background noise level when measured at any boundary of the development site. The approach also acknowledges the overriding statutory obligations under the <i>Protection of the Environment Operations Act 1997</i> and the <i>Protection of the Environment Operations (Noise Control) Regulation 2008</i> relating to offensive noise. These obligations apply irrespective of development</p>

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		<p>controls in a DCP. Therefore, we do not consider it necessary to single out specific sections and clauses. It will be sufficient to make reference to the entire Act and Regulation in the manner provided by Council's standard conditions of development consent. On the basis of these considerations the following alterations are suggested:</p> <p><b>C5.10.11</b> External condensers and air conditioning units are to be located and screened in order to minimise noise impacts on neighbours. <u>In this regard noise emissions must not exceed the background noise level when measured at the boundary of the development site.</u></p> <p><u>Note: The provisions of the <i>Protection of the Environment Operations Act 1997</i> and the <i>Protection of the Environment Operations (Noise Control) Regulation 2008</i> have overriding effect if offensive noise arises from the condensers and units.</u></p> <p><b>C5.10.12</b> External condensers and air conditioning condenser units should not be visible from the public domain nor should they have a greater visual or amenity impact on the streetscape or the neighbours than they have on the occupants of the site.</p>
<p>Liza Feeney  10 Henrietta St.  Double Bay  27 July 2007</p>	<p>Pleased that Council is addressing the issue of roof terraces. Would like to submit several questions for consideration based on experience with a recently completed house on the adjoining site.</p>	<p>The submission makes reference to a development that occurred on a site adjoining the author's site. The author's comments about the impact of the development lie outside the purpose of this report to the Urban Planning Committee. Issues about compliance with development consent conditions should be taken up through other avenues such as the Council's Compliance Section. Responses to the submission are not intended to be comments on the assessment or outcome of the development.</p>
	<p><i>Clause 2.1.1</i>  <i>C.5.3.5 [within clause 5.3 Open space and landscaping]</i>  How will Council determine the impact on</p>	<p>Council's DA assessment staff have several ways of determining impact. These include use of site survey plans, aerial photographs and DA plans. They will also make inspections from the subject site, adjoining sites and neighbouring lands. Where matters are determined by Council's Application Assessment Panel or Development</p>

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	<p>properties?</p> <p><i>Clause 2.1.1</i>  <i>C.5.8.6 [within clause 5.8 Acoustic and visual privacy]</i>            Will architectural lattice be acceptable in the new amendment?</p>	<p>Control Committee, the members of the Panel and Committee may carry out additional site inspections.</p> <p>Control 5.8.6 requires screening “to prevent direct views into habitable rooms or private open space of adjoining or adjacent dwellings.” This is a performance based control as it does not prescribe a particularly type of screening.</p> <p>The term “architectural lattice” is not used in Woollahra development control plans. A range of screening devices may be used to achieve the intended performance objective. A grid type screen may be acceptable provided it achieves the objective.</p>
	<p>Will Council still consider plants a viable privacy screen</p>	<p>The proposed control does not specify the use of plants as a privacy screen. It is open to an applicant to submit for consideration plans that use planting as a means of privacy screening. The adequacy of planting by itself or as part of other measures would be to be assessed on a case-by-case basis.</p>
	<p><i>Clause 2.1.4</i>  <i>C5.8.9 [within clause 5.8 Acoustic and visual privacy]</i>            How will Council determined the 12m line of site regarding setbacks and overlooking on blocks less than 12m in width?</p>	<p>The 12m distance illustrated in Figure 5.8.5 is from the face of the building on which the roof terrace is proposed to the face of the neighbouring building. Any window of a habitable room within the 12m is protected by this clause.</p>
	<p><i>Clause 2.1.4</i>  <i>C5.8.10 [within clause 5.8 Acoustic and visual privacy]</i>            Could Council address the issue of lighting with regard to the possibility of it being adjusted and so becoming a problem?</p>	<p>This question is addressed through the proposed alteration to clause 5.8.10 mentioned above. The alteration requires lighting to be <u>fixed in a non-adjustable manner so that light is projected downwards onto the floor surface of the terrace.</u></p>

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<p>William Zuccon Dods and Zuccon Architects Pty. Ltd. 3 September 2007</p>	<p><i>Clause 2.1.4</i>  <i>C5.8.9 and C5..810 [within clause 5.8 Acoustic and visual privacy]</i>            Generally agree with the proposed amendments to clause 5.8. However, the new clauses seem to exclude the use of privacy screens. There are effective ways to ensure privacy between properties using screens.</p> <p>Figure 5.8.5 has merit but seems to only work in cases where the development otherwise complies with all other planning controls. As a minority of development in inner urban areas completely comply with controls, there is a likelihood that the provisions in Figure 5.8.5 will rarely be satisfied.</p>	<p>The use of privacy screens is recognised as an important device for protecting amenity in urban environments (see <i>RDCP 2003. 5.8 Acoustic and Visual Privacy</i>). However, such screens are required to comply with all other controls, including those regarding building bulk and the obstruction of views. Privacy screens should not be used as the sole means to address privacy issues. Setbacks from building edges thereby restricting access to part of a terrace can be an effective measure to protect privacy.</p>