

<b>JRPP No:</b>	2010SYE037
<b>DA No:</b>	219/2010
<b>PROPOSED DEVELOPMENT:</b>	Residential Flat Building, 158-160 Ramsgate Avenue, Bondi Beach
<b>APPLICANT:</b>	SJB Planning
<b>REPORT BY:</b>	Arif Faruqi, Area Manager, Development Assessment (North), Waverley Council

## Assessment Report and Recommendation

### Reason for referral to JRPP

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the Joint Regional Planning Panel (JRPP) as the capital value of the proposed development is more than \$10 million.

### History

A preliminary briefing of the original application was provided to the JRPP on 1 September 2010. Prior to this briefing, the applicant (following discussions with Council assessment staff) made a formal request to the panel that the application be deferred to allow amendments to be carried out. The JRPP resolved to allow the applicant to make amendments to the proposal in response to the issues raised in Waverley Council's Assessment Report (**Appendix 1**). The applicant has since submitted amended plans which are the subject of this report.

### Amendments

The application has been amended in the following ways:

- Deletion of level 4 and changes to the internal layout of level 3 to accommodate the master bedroom deleted from level 4;
- Redesign of the basement carpark, reducing the parking from 12 spaces to 9 spaces and allocation of additional basement storage;
- Relocation of the basement vehicle entry to a central position to facilitate deep soil planting to the side boundaries;
- Provision of 2m wide deep soil landscaping along both side boundaries;
- Provision of rumpus rooms at the rear of apartments 1 and 2 on level 1;
- Amendment to the blade wall arrangement on level 3 north and south elevations relating to the internal layout redesign;
- Solar panels on the roof; and
- Review of floor levels in the building to allow for relocated driveway entry and to improve the amenity of the residential levels.

### Executive Summary

The amendments improve the performance of the proposal against the controls and objectives in the DCP; improve satisfaction of the aims and objectives in the LEP; and result in a building that is commensurate with surrounding development, has no

unreasonable view loss impacts and is therefore supported by Council subject to a condition requiring a reduction in height by 830mm.

This report considers the application against all relevant planning controls and provides draft conditions of consent for the consideration of the Panel.

### **Amended Proposal**

The proposal continues to involve the demolition of all the structures on the site and the construction of a new residential flat building containing 6 units.

The originally proposed form of the building was roughly a butterfly roof design, whereas the deletion of the top floor has resulted in a flat roof design with a raised plant room above the roof plate.

The original proposal had a flat roof plate to RL28.23 at the edges and RL28.38 to the roof deck, with attic structures above to a maximum height of RL31.405. The amended proposal has not simply retained the roof plate and removed the attic levels, but rather due to the increase floor to ceiling height of the basement level and increased floor to floor heights to all other levels, the top of the roof plate is now RL29.06 at the edges and RL29.21 to the central roof deck. In effect, the height of the leading edge of the substantive building has increased by 830mm, including the central 'pop-up' plant and lift overrun.

The parking level is still accessed via Ramsgate Avenue, however the entrance has been relocated to the centre to remove the need for a passing lane which unnecessarily extended the width of the basement to both side boundaries. The basement now has a genuine 2m and 2.58m setback to the side boundaries and accommodates additional storage as compared to the original submission. This results in a reduced car parking capacity of 9 (previously 12) spaces. This level continues to accommodate the garbage room, storage, plant and pump room, as well as the entry breezeway, lobby and lift.

Level 1 remains generally unchanged with the exception of additional excavation towards the rear to accommodate a rumpus room to both units. These rooms have no access to light or natural ventilation and their use will be subject to BCA regulations. Otherwise, the level continues to accommodate 2 x 3 bedroom apartments as originally proposed with private outdoor space in the form of terraces over the parking level at the front of the site. The floor level is raised from RL18.925 to RL19.41.

Level 2 is unchanged with the exception of the floor level, being raised from RL22.01 to RL22.61. Otherwise the level continues to accommodate 2 x 3 bedroom apartments which align with the natural ground level at the rear of the site, allowing for a level extension from the rear bedrooms to private landscaped courtyards. These units also benefit from balconies at the front of the site off the main living areas as well as pocket balconies to low use rooms.

Level 3 has been amended so that the area of the deleted staircase (which gave access to the now deleted top floor above) is converted to a master bedroom in line with the layout below on level 2. This level now has the same layout and amenity as level 2, with front facing balconies and pocket balconies to low use rooms, but without the amenity of a rear courtyard. The floor level has been raised from RL25.095 to RL25.81.

The upper most level has been deleted. The roof deck is shown to accommodate future solar panels but no tenant access/occupation.

The application continues to include strata subdivision.

# COMPLIANCE CHECK – ORIGINAL PROPOSAL AND AMENDED PROPOSAL

<b>Control</b>	<b>Standard</b>	<b>ORIGINAL Proposed</b>	<b>ORIGINAL Compliance</b>	<b>AMENDED Proposed</b>	<b>AMENDED Compliance</b>
Frontage	• 15m	• 24.38m	• <b>Yes</b>	• 24.38m	• <b>Yes</b>
Height	• Wall height 6.5m	• 9.21m rear; • 10.53m front; • 11.43m max (centre)	• <b>No</b>  • <b>No</b>  • <b>No</b>	• 7.01m rear; • 11.36m front; • 11.36m max (front)	• <b>No</b>  • <b>No</b>  • <b>No</b>
	• Overall height 9.5m	• 11.43m	• <b>No</b>	• 11.36m	• <b>No</b>
	• Number of storeys 2	• 3 storeys plus attic	• <b>No</b>	• 3 storeys	• <b>No</b>
	• Maximum pitch 35°	• Mansard form	• <b>No</b>	• No attic	• <b>Yes</b>
Maximum FSR Site Area 954.84m <sup>2</sup>	• 0.6:1 • 572.9m <sup>2</sup>	• 1.24:1 • 1,183m <sup>2</sup>	• <i>No</i>	• 1.15:1 • 1,092.9m <sup>2</sup>	• <i>No</i>
Setbacks	Front setback • 6m	• 6m	• <b>Yes</b>	• 6m	• <b>Yes</b>
	Rear setback • 6m	• 5.5m	• <b>No</b>	• 5.5m	• <b>No</b>
	Side setbacks • 3m	Basement and Level 1 • Nil on both sides Level 2 and 3 • 3.1m	• <b>No</b>  • <b>Yes</b>	Basement • 2m-2.58m Level 1 • Nil on both sides Level 2 and 3 • 3.1m	• <b>No</b>  • <b>No</b>  • <b>Yes</b>
Building Length	• Maximum 24m	• 18m	• <b>Yes</b>	• 18m	• <b>Yes</b>
Building Depth	• Maximum of unit is 18m	• 22.5m up to 29m incl. decks	• <b>No</b>	• 23.5m up to 31m incl. decks	• <b>No</b>
Side fences	• 1.8m max height	• Stepped up to 3.9m	• <b>No</b>	• Stepped up to 2.6m	• <b>No</b>
Lands.	• Minimum 30% or site as deep soil zone	• 12%	• <b>No</b>	• 24%	• <b>No</b>
	• 2m soft strip along side	• Not achieved	• <b>No</b>	• Achieved	• <b>Yes</b>
	• Additional	• Nil	• <b>No</b>	• Nil	• <b>No</b>

	10% soft	additional		additional	
Communal space	<ul style="list-style-type: none"> <li>15% as communal</li> </ul>	<ul style="list-style-type: none"> <li>No communal space</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>	<ul style="list-style-type: none"> <li>No communal space</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Sunlight	<ul style="list-style-type: none"> <li>70% of units minimum 3 hours 9am-3pm</li> </ul>	<ul style="list-style-type: none"> <li>5 of 6 units (83%)</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>5 of 6 units (83%)</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Ceiling Heights	<ul style="list-style-type: none"> <li>Residential 2.7m</li> </ul>	<ul style="list-style-type: none"> <li>2.7m</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>2.7m (or greater)</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Attic Rooms	<ul style="list-style-type: none"> <li>Minimum width 3m</li> <li>Height 2.4m for 2/3 of room</li> <li>Attached to lower unit &amp; not living or dining room</li> </ul>	<ul style="list-style-type: none"> <li>4.8m</li> <li>2.4m for 82% of room</li> <li>Attached to lower unit and bedrooms</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>No attic rooms proposed</li> </ul>	<ul style="list-style-type: none"> <li>N/A</li> </ul>
Private Balconies to upper units	<ul style="list-style-type: none"> <li>Minimum area 10m<sup>2</sup></li> <li>Min. depth 2.5m</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>2</sup></li> <li>&gt; 2.5m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>2</sup></li> <li>&gt; 2.5m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>
Courtyards to ground level units	<ul style="list-style-type: none"> <li>Minimum area 25m<sup>2</sup></li> <li>Min. width 3m</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 25m<sup>2</sup></li> <li>&gt; 3m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 25m<sup>2</sup></li> <li>&gt; 3m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>
Storage Facilities	<ul style="list-style-type: none"> <li>Three bed unit 10m<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Apartment Mix	<ul style="list-style-type: none"> <li>Studio/1 bed 35%</li> <li>2 bed 50%</li> <li>3 bed 15%</li> </ul>	<ul style="list-style-type: none"> <li>100% 3 bedroom</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>	<ul style="list-style-type: none"> <li>100% 3 bedroom</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Minimum unit size	<ul style="list-style-type: none"> <li>3 bedroom 100m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>&gt; 100m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 100m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Parking Spaces (Parking Zone B)	<ul style="list-style-type: none"> <li>Min 6 – Max 9 spaces</li> <li>Nil visitors</li> <li>8 Bicycles</li> </ul>	<ul style="list-style-type: none"> <li>12 spaces</li> <li>Nil visitors</li> <li>Nil shown</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> <li>Yes</li> <li><b>No</b></li> </ul>	<ul style="list-style-type: none"> <li>9 spaces</li> <li>Nil visitors</li> <li>3 shown</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> <li><b>No</b></li> </ul>

### **Unacceptable non-compliances**

The deletion of the upper most floor, the introduction of a setback to the basement level and the reduction in parking capacity to 9 spaces are improvements to the scheme which are supported by Council. However, the amendments have not entirely overcome the Council's height concerns. In addition, some non-compliances with Council's controls have not been improved and remain an issue.

In all cases, these concerns may be satisfactorily overcome by conditions of consent.

#### Height

The leading edge of the building, ie the parapet wall, has increased by 830mm as compared to the original proposal, exacerbating the non-compliance with Council's controls. For example, the front of the building was originally 10.53m above natural ground level, whereas the amended proposal is 11.36m above natural ground level, resulting in a larger building as viewed from the street.

This is contrary to the recommendations of Council and results in a building that in some respects has additional impacts upon adjoining properties, including view loss. Especially noting that the amended application was not notified/advertised on the basis that the amended proposal had a *reduced* impact, the Panel should not approve an increase in height without proper notification and consideration of public submissions. In any event, Council does not support the additional height.

The increased height has occurred for two reasons. Firstly, the reconfiguration of the basement parking level has meant that the previously achieved height of the slab at RL15.425 via a long downhill ramp has not translated to the new configuration, which does not have a ramp. Secondly, the floor to floor heights for the residential floors have increased from 3.085m/3.085m/3.285m to 3.2m/3.2m/3.4m - (Lvl1/Lvl2/Lvl3).

Given the view impacts that result from this leading edge, and as recommended by Council officers in response to the original application, the maximum height of the building should be no greater than RL28.23 to the edge and RL28.38 to the roof deck, as originally proposed. This requires a reduction in the overall height of the proposal by 830mm.

It is possible to achieve this without impacting upon the amenity of the proposed units. The originally proposed floor to floor heights should be reinstated, being 3.085m/3.085m/3.285m. This reduces the overall height by 345mm and retains the level of amenity and ceiling heights as originally proposed. A further 485mm (as is required to achieve the 830mm reduction) is to be reduced from the basement level floor to ceiling height by removing the 'ramp high point' at the front of the site and immediately ramping down into the basement instead, with services concentrated further towards the rear above the car spaces.

A condition is therefore recommended to reduce the building height by 830mm so that it is no higher than originally proposed.

### Rear setback

The rear setback is 5.5m to the edge of the building and the control seeks a minimum of 6 metres. The existing southern building is set back 6 metres from the rear and the northern building substantially more. The adjoining building to the south is set back slightly over 6 metres (with the exception of roof eaves) and the buildings to the north have setbacks of 6m or more.

The rear setback is an important control in this instance, as it also acts as the front setback when the property is seen from its address on Brighton Boulevard. The Council's front setback control is also 6 metres. The applicant states that the building itself is set back 6.63m to the glazing line, however the solid privacy screen devices on the balconies extend the visual bulk of this building to the outer edge of the balcony, and this point is 5.5m from the rear boundary. The proposal results in the shortest setback from the street along this side of Brighton Boulevard and this is not reasonable when considering it extends beyond a compliant building envelope. The building should achieve a 6m setback to the outer edge of the balcony to allow a consistent reading of the rear building line as viewed from Brighton Boulevard. A condition is recommended to this effect.

## **Acceptable non-compliances**

### Floor space ratio (FSR)

The FSR itself does not result in any unreasonable impacts upon the adjoining properties, but rather it is the height and setback controls which dictate the acceptability of this proposal. The proposed FSR is in fact less than the current FSR on the two sites. Council raises no objections to this numerical non-compliance.

### Side setbacks

The amended proposal has reduced the extent to which the building intruded into the side setback zone. The remaining exceptions are the lower level bedrooms and the pump room at the basement level. These intrusions do not result in unreasonable impacts upon the adjoining properties and are acceptable.

### Building depth

The units provide a sufficient width so that their depth of greater than 24 metres does not result in a 'gun barrel' style apartment, and the internal amenity is acceptable with the exception the underground 'rumpus rooms', which can only be utilised in a way which satisfies the BCA (cellar/storage etc). The non-compliance with the building depth controls is acceptable.

### Side fences

The original proposal had side fences up to 3.9m above natural ground level and in a stepped but level format. The amended proposal has 2.6m high fences which are stepped *and sloped* to minimise their visual impact upon the neighbours. The amended fence design is supported despite the numerical non-compliance.

### Landscaping

The omission of a 2m wide landscaping strip in the original proposal was unacceptable. The amended proposal has introduced a genuine deep soil landscape strip on either side of the property. Despite the numerical non-compliance with the overall 30% requirement, this landscaping is acceptable.

### Communal Open Space

Given the private open space opportunities for these units, the limited number of units and their internal facilities including laundries and clothes drying areas, the nil provision of communal open space is supported in this case.

### Apartment Mix

The 'mix' controls affect developments with 6 or more units, and therefore are only just applicable to this application. Given the nature of the development and the variety of housing forms in the immediate vicinity, the introduction of 6 x 3 bedroom apartments without a DCP compliant mix of smaller units is acceptable in this case.

### Bicycle Parking

Specific bicycle parking racks/spaces should be shown on the garage level for both the occupants of the building and visitors as required. A condition is recommended.

### **Public Exhibition**

The application was originally notified and advertised for 14 days and a public notice placed on the site. Nineteen (19) individual submissions were received, as well as three (3) different pro-forma letters signed and sent in by 9, 13 and 32 persons respectively.

The amended design has addressed a large number of the issues, particularly those relating to view loss and height, and given the overall reduced impacts from the proposed amendments, **subject to conditions** the application may be determined without re-notification. The amended plans are considered to address all reasonable and justifiable objections originally received. Where the proposal does not address objections, these objections are not considered reasonable given the general compliance of the application with Council's controls, the reasonableness of any view impacts and the acceptability of the resulting building.

**The above statement is not valid if the Panel disagrees with the condition of consent requiring a lowering of the building, including the plant and lift overrun, by 830mm.**

### **CONCLUSION**

The application has been assessed against all relevant provisions of the Environmental Planning and Assessment Act 1979. Subject to the imposition of conditions, it is recommended that **the Panel grants conditional approval.**

It should be noted that a condition is recommended to reduce the building height by 830mm so that it is no higher than originally proposed. If the Panel is mindful *not* to impose this condition, the Panel should give consideration to re-advertising the amended proposal on the basis that the impact of this proposal may be greater than the original proposal.



Other modification conditions include an increased rear setback to 6 metres and the specific allocation of 8 bicycle spaces within the basement level. These conditions are recommended to achieve overall compliance with Council's controls.

**Mitchell Reid**  
**Divisional Manager**  
**Development Assessment**

## **RECOMMENDED CONDITIONS OF CONSENT**

### **SCHEDULE A**

### **APPROVED DEVELOPMENT**

## **1. APPROVED DEVELOPMENT**

The development must be in accordance with:

- (a) Architectural Plan No. DA-0200, DA-0201, DA-0202, DA-0203, DA-0205, DA-0501, DA-0502, DA-0601 DA-0602, all revision 06, dated 10/09/10 prepared by SJB;
- (b) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part G1, Waverley DCP 2006.

Except where amended by the following conditions of consent.

## **2. GENERAL MODIFICATIONS**

The following amendments must be made to the plans prior to the issue of a Construction Certificate:

- a) To minimise the impact upon the streetscape, to minimise view loss to adjoining properties, and to reduce the extent of non-compliance with Council's height controls, the building is to be lowered by 830mm. This includes the parapet (shown at RL29.06), the roof deck (shown at RL29.21) and the services parapet (shown at RL30.16).

This is to be achieved by reducing the floor to floor heights to 3.085m/3.085m/3.285m over Levels 1, 2 and 3 respectively, and further reductions from the basement level floor to floor height by removing the 'ramp high point' at the front of the site and immediately ramping down into the basement instead, with services concentrated further towards the rear above the car spaces.

- b) To reduce the non-compliance with Council's rear setback controls and to maintain a consistent presentation and future building alignment along Brighton Boulevard, the rear setback of the building is to be increase so that the building edge, dictated by the solid privacy screen devices on the balconies, achieve a 6m setback to the rear boundary on levels 2 and 3.
- c) A new landscape plan is to be amended indicating a minimum 50% local native planting on the site.
- d) A new BASIX Certificate is required.
- e) New draft subdivision plans are required.

The amendments must be submitted to and approved by the Director of Planning, Waverley Council.

## **3. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT (SEPP65)**

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

## **4. ARCHITECT TO SUPERVISE DESIGN**

The preparation of the Construction Certificate plans shall be supervised and to the satisfaction of SJB in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

**5. COMPOSTING**

The development shall accommodate the provision of a composting service for residents and the scheme shall be under the responsibility of the Body Corporate and provided prior to issuing of the Occupation Certificate.

**6. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 96 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

**SCHEDULE B**

**COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION  
CERTIFICATE**

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## 7. SECTION 94A CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:
  - (1) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"; or,**
  - (2) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".**

A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from:  
[www.waverley.nsw.gov.au/publications/](http://www.waverley.nsw.gov.au/publications/)

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 96 modification result in any change to the total cost of the work, the Section 94A contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

### Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
  - A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
  - A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.
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## 8. SECURITY DEPOSIT

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A deposit or guarantee satisfactory to Council for the amount of \$10,000 must be provided as security for the payment of the cost of making good any damage that may be caused to any Council property as a consequence of this building work.

This deposit or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

## 9. LONG SERVICE LEVY

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A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

**Note:** Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

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## **10. NO BUILDING WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, including demolition, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81A(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principal Certifying Authority.

## **11. ESSENTIAL SERVICES - NEW BUILDING**

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) basis of design;
- (b) standard to which the system is to be installed; and
- (c) all relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

- (a) inspection, testing and commissioning details;
- (b) date of inspection, testing and commissioning;
- (c) the name and address of the individual who carried out the test; and
- (d) a statement that the service has been designed, installed and is capable of operating to the above standard.

## **12. NOISE ATTENUATION IN RESIDENTIAL FLAT DEVELOPMENT**

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Noise attenuation is to be achieved in all residential units within the building by a minimum of the following standards:

- (a) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a stairway, public corridor, hallway or the like;
- (b) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have a FSTC of not less than 55;
- (c) A wall or floor shall have a FSTC of not less than 55 if it separates a sole occupancy unit from a plant room;
- (d) A floor separating sole occupancy units must not have a FSTC of less than 50; and
- (e) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an Impact Isolation Class of not less than 55.

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Details are to be provided on the plans to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

### **13. SERVICE AUTHORITIES**

The applicant is to seek approval from all relevant authorities regarding any possible modification to the service authority's infrastructure prior to the issue of a Construction Certificate.

### **14. HOARDING REQUIRED**

If required, hoarding designed and constructed in accordance with the requirements of the Work Cover Authority is to be erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings are to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

### **15. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works. The Report shall be submitted to the Principal Certifying Authority, Council and the owners of adjoining properties prior to the issue of a Construction Certificate.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

### **16. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Part G1, Waverley DCP 2006 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### **17. EROSION, SEDIMENT AND POLLUTION CONTROL**

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be



implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to Council prior to the issuing of a Construction Certificate.

#### **18. CONSTRUCTION VEHICLE PLAN OF MANAGEMENT**

Submission of a "Construction Vehicle Plan of Management" for the routing and control of construction vehicles accessing and exiting the site. Such plan to address the hours of operation, the employees' vehicles, holding areas for vehicles wanting to access the site and truck works and provide a means of ensuring vehicular and pedestrian access to adjoining resident's properties for the duration of the works. The "Construction Vehicle Plan of Management" is to be approved by Waverley Council prior to the issue of a Construction Certificate and the undertaking of any demolition, remediation or construction on the site.

#### **19. STORMWATER MANAGEMENT**

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2006 (Amendment No. 4) - Part G4 prior to the issue of a Construction Certificate.

#### **20. ENGINEERING DETAILS**

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

#### **21. VEHICULAR ACCESS**

Vehicular access and gradients of vehicle access driveway(s) within the site are to be in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking with details provided on the plans prior to the issue of the Construction Certificate.

#### **22. BICYCLE PARKING**

A total of 8 bicycle parking spaces are to be provided. Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the basement level, including 2 spaces accessible to visitors. Details are to be indicated on the plans prior to the issue of the Construction Certificate.

#### **23. BASIX**

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and can not be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

#### **24. USE OF RENEWABLE TIMBERS**

Council requires, wherever possible, the use of renewable timbers and/or plantation timbers such as Radiata Pine or Oregon as an alternative to the use of non-renewable rainforest timber products in buildings so as to help protect the existing areas of rainforest. In this regard, a schedule of proposed timber products to be used in the building is to be submitted for approval by the Principal Certifying Authority prior to the issue of the Construction Certificate. Where the applicant is to use timbers not recommended in Council's Policy, reasons are to be given why the alternative timbers recommended cannot be used.

#### **25. LANDSCAPED SLABS**

Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is proposed.

## **SCHEDULE C**

### **COMPLIANCE PRIOR TO AND DURING CONSTRUCTION**

## **26. PRIOR TO SITE WORKS**

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

## **27. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

## **28. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **29. EXCAVATION AND BACKFILLING**

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

## **30. EXCAVATION BELOW FOOTINGS**

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and
- (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

## **31. OBSTRUCTION TO PUBLIC AREAS**

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If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

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(a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;

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(b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and

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(c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

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## **32. TOILET FACILITIES**

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Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

## **33. NO USE OF ORGANOCHLORIN PESTICIDES**

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The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

## **34. DILAPIDATION REPORT**

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A dilapidation report prepared by a practising Structural Engineer shall be submitted to the Principal Certifying Authority, Council and the owners of the all adjoining properties prior to the commencement of demolition, bulk excavation or building works, detailing the current condition and the status of all buildings (both internal and external), including ancillary structures located upon all adjoining properties.

## **35. USE OF FILL ON SITE**

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Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.

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## **36. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED**

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The following requirements apply to demolition and construction works on site:

(a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

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(b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of WorkSafe's Control of Inorganic Lead at Work (NOHSC: 102(1994) and NOHSC: 2015(1994)).

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(c) All lead-contaminated materials being disposed of in accordance with the DECC's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999) and The Protection of the Environment Operations Act 1997 (NSW).

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## **37. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS**

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At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS260-2001, Demolition of Structure and a Hazardous Materials Assessment by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;
  - (b) confirm that no asbestos products are present on the subject land; or
  - (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC 2002 (1998);
  - (d) describe the method of demolition;
  - (e) describe the precautions to be employed to minimise any dust nuisance; and
  - (f) describe the disposal methods for hazardous materials.
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## **38. DEMOLITION & SITE PREPARATION**

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Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the DECC, and with the provisions of:

- (a) New South Wales Occupational Health and Safety Act, 2000;
  - (b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
  - (c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
  - (d) Protection of the Environment Operations Act 1997 (NSW) and
  - (e) DECC's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).
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## **39. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

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All site works complying with the occupational health and safety requirements of WorkCover NSW.

## **40. SOIL AND WATER MANAGEMENT PLAN**

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A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the DECC's Managing Urban Stormwater: Construction Activities. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

## **41. STOCKPILES**

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

## **42. LOCATION OF BUILDING OPERATIONS**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

## **43. ALL BUILDING MATERIALS STORED ON SITE**

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All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

#### **44. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends;
- (b) Sundays and public holidays; and
- (c) On the Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which immediately precede or follow industry Rostered Days Off, as agreed by the CFMEU and the Master Builders Association of NSW.

Noise from construction activities shall comply with the Protection of the Environment Operations (Noise Control) Regulation 2000.

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#### **45. USE OF HEAVY EARTH MOVEMENT EQUIPMENT**

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

#### **46. CONSTRUCTION NOISE - PERIODS GREATER THAN 4 WEEKS**

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

#### **47. BUILDING CODE OF AUSTRALIA**

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

#### **48. INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

**MANDATORY** Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

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In the case of a Class 2-9 building:

- (a) at the commencement of the building work;
- (b) prior to covering of waterproofing in any wet area for a minimum of 10% of rooms with wet area within a building;
- (c) prior to covering any stormwater drainage connections; and
- (d) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls); and
- (g) swimming pool fencing prior to filling pool.

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

#### **49. CERTIFICATE OF SURVEY - LEVELS**

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### **50. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **51. IN-SINK WASTE DISPOSAL SYSTEMS**

The installation of in-sink waste disposal systems is prohibited.

#### **52. ENCROACH BEYOND THE BOUNDARIES**

No portion of the proposed works including the footings and roof eaves, to encroach beyond the boundaries of the subject property.

#### **53. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER**



Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

**54. SERVICE PIPES**

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

**55. STREET TREES**

No existing street trees shall be removed without Council approval. A 1.8m high chain link wire fence or the like shall be erected around the existing street trees to protect them from damage during construction. Where approval is granted for the removal of a street tree the applicant is to pay for its replacement with a super advanced tree of a species nominated by Council.

**56. TREE PROTECTION**

Precautions shall be taken when working near trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

**57. EXISTING VEHICLE CROSSING IS TO BE MODIFIED**

Any existing vehicle crossing to be modified requires a separate application with all work to be carried out with the approval of and in accordance with the requirements of Council.

**58. NEW VEHICLE CROSSING**

Any new vehicle crossing to be provided to access the proposed basement car park requires a separate application, with all work to be carried out with the approval of and in accordance with the requirements of Council. All new vehicle crossings to be Wheel Strips instead of full width concrete driveway wherever feasible.

**59. WORK OUTSIDE PROPERTY BOUNDARY**

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

**SCHEDULE D**

**COMPLIANCE PRIOR TO AN OCCUPATION CERTIFICATE  
OR COMMENCEMENT OF USE**

## 60. SYDNEY WATER

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

## 61. OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue an Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

## 62. LIGHTING

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting*.

## 63. STREET NUMBER/S

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street.

## 64. LIGHTS

All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

## 65. PARKING PERMITS

In accordance with Council's Policy, Residents Preferred Parking permits will **not** be issued for this development when completed.

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# **SCHEDULE E**

## **STRATA SUBDIVISION**

**66. PLANS**

Compliance in all respects with Draft Surveyor's Plans, except where amended by the following conditions of consent.

**67. LINEN PLANS**

A linen plan and six copies are to be submitted to Council or Accredited Certifier in accordance with Section 109 c (d) of the Environmental Planning and Assessment Act, 1979.

**68. PRIOR TO REGISTRATION**

Prior to the registration of the linen plans a Sub-division Certificate must be obtained from Council or an Accredited Certifier in accordance with Section 109 C (d) of the Environmental Planning and Assessment Act, 1979.

**69. COMPLIANCE CERTIFICATE – SYDNEY WATER**

Before the release of the linen plan for subdivision, a compliance certificate under Section 73 of the Sydney Water Act, 1994, Part 6 Division 9 must be obtained from Sydney Water and submitted to Council or the Accredited Certifier. Sydney Water may require the construction of works and/or the payment of developer charges.

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**70. STRATA TITLE SUBDIVISION -**

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All units within the strata title subdivision will be numbered the same as the corresponding lot numbering the relevant strata plan eg lot 1 equals unit 1 etc. Any variations to the unit numbers must have Council approval.

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**END OF CONDITIONS**

# **APPENDIX 1**

## **Sydney East Joint Regional Planning Panel** **Panel Briefing 1 September, 2010**

Site: 158-160 Ramsgate Avenue, Bondi Beach

Site Area: 954.84sqm

Zoning: Residential 2(b) under Waverley LEP 1996

### **Reason for referral to JRPP**

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, the application is referred to the Joint Regional Planning Panel (JRPP) as the capital value of the proposed development is more than \$10 million.

### **The Site and its Locality**

The site is located on the eastern side of Ramsgate Avenue with the rear boundary fronting Brighton Boulevard and located south of Bay Street and Brighton Boulevard intersection. The site has a frontage of 24.38m to Ramsgate Avenue at the front and similar frontage to Brighton Boulevard at the rear. The total depth of the site is 39.165m, resulting in a total site area of 954.84m<sup>2</sup>. There is a significant fall from the rear of the site to the front of approximately 6-7 metres as well as a cross-fall from south to north of approximately 600mm.

The development site is made up of two residential blocks, each containing a residential flat building. On the southern site, known as 160 Ramsgate Avenue, is a two storey building containing 8 units, with no on-site parking provisions, whilst on the northern site, known as 158 Ramsgate Avenue, is a two and three storey building containing 5 units and parking for 3 cars in the form of a triple garage fronting Ramsgate Avenue. These buildings are to be demolished.

Surrounding development is typically residential flat buildings, varying in scale but generally 2 and 3 storeys in height, often above podium parking. 'Ben Buckler', as this peninsula is known, is characterised by tall and thin residential flat buildings with vertically emphasised openings and pitched roofs. In some cases the buildings are double width and up to 5 or 6 storeys, and this is particularly evident on the immediately adjoining site to the south, being twice as high and twice as wide as surrounding buildings.

A large number of original 1960's residential flat buildings remain intact with minimal external improvements on Ben Buckler.

## **Proposal**

The proposal involves the demolition of all the structures on the site and the construction of a new residential flat building containing 6 units above basement parking for 12 cars.

The form of the building is roughly a butterfly roof design characterised by three floors above a part basement / part podium style garage level with attic style extrusions above the main roof plate.

The parking level is accessed via the Ramsgate Avenue frontage and is ramped down so that the finished floor level is 1 metre below the level of the road alignment at the lower end of the site and 1.5 metres at the higher end. This level also accommodates the garbage room, storage, plant and pump room, as well as the entry breezeway, lobby and lift. Given the fall over the site from the rear (Brighton Boulevard) to the front (Ramsgate Avenue), the basement level is located fully below natural ground level approximately 10 metres into the site. Excavation is proposed to both side boundaries for the majority of the basement.

Level 1 accommodates 2 x 3 bedroom apartments, with a portion at the rear of the unit being below natural (and finished) ground level and extending in excavation to the side boundary on both sides. The units are set further back from the frontage to benefit from solar protection created by cantilevered balconies on the floors above. The units are provided with private outdoor space in the form of terraces over the parking level at the front of the site.

Level 2 accommodates 2 x 3 bedroom apartments which align with the natural ground level at the rear of the site, allowing for a level extension from the rear bedrooms to private landscaped courtyards. These units also benefit from balconies at the front of the site off the main living areas as well as pocket balconies to low use rooms.

Level 3 accommodates 2 units, which extend over two floors up to Level 4 via a stair in the study. The lift stops on this level and also stair access is available to the upper levels of these split level units. These units also contain 3 bedrooms however the floor area is more generous via the inclusion of a study and separated upper level master bedroom retreat with ensuite and walk in robe. On level 3, the units are provided with similar balcony spaces to those on the floor below, but do not benefit from any courtyard area at the rear. Instead, the additional benefit is gained via the upper level bedrooms which extend onto generous roof terrace areas.

The application also includes strata subdivision.

## **Zoning**

The site is zoned Residential 2(b) under the Waverley Local Environmental Plan 1996. The proposed development, being a residential flat building, is permissible with development consent.

The site is in close proximity to Urban Conservation Area and the Beachfront Scenic Protection Area, which are located just west and southwest of the subject site. Additionally the site is also located close to the Ben Buckler (Ray O'Keefe Reserve),

which is identified as a heritage landscape item Schedule 5 (C) of Waverley LEP 1996.

### **Public Exhibition**

The application was advertised for 14 days in accordance with *Waverley Development Control Plan 2006, Part C3 – Advertised and Notified Development* and a public notice placed on the site. Nineteen (19) individual submissions were received, as well as three (3) different pro-forma letters signed and sent in by 9, 13 and 32 persons respectively. A summary of issues raised is provided below:

### **View Loss**

- View loss generally, and in relation to setting a poor precedent
- View loss specifically the loss of the view corridor in between the two existing buildings
- View loss specifically from:
  - 4/146 Brighton Blvd
  - All units within 146 Brighton Blvd
  - 1&3/150 Brighton Blvd
  - 2/152 Brighton Blvd
  - 4/152 Brighton Blvd
  - 154 Brighton Blvd
  - 2&4/154 Brighton Blvd
  - 2/156 Brighton Blvd 4/156 Ramsgate Ave
- View loss diagrams are not accurate and cannot be relied upon
- Request for height poles to be provided to verify view loss montages

### **Character/Streetscape/Design**

- Overdevelopment
- Incompatible with the Ben Buckler Special Character Area
- Incompatible with the streetscape
- Out of character
- Monolithic design (exacerbated by the amalgamation of two lots)
- Does not fit in with the surrounding urban landscape
- Modern design is not in keeping with the local heritage and urban landscape – butterfly roof will be an eyesore and will be visible from Bondi Beach, detracting from the urban character of Ben Buckler
- The building as viewed from the rear does not relate to its setting
- Unreasonable reliance on the scale of the immediately adjoining oversized building
- Third level should be set back from the street frontage to more readily address the height control and fit within the attic zone
- Floor levels should be dropped by 1m to protect views
- Potential for later enclosure or roofed open areas
- That should the fourth level be deleted, the units would still be three bedroom apartments (no loss of bedrooms) because the spiral stair ‘room’ would become a bedroom.



### Non-Compliance

- Floor space ratio is excessive
- Excessive height and number of storeys
- Non-compliance with attic level controls in the DCP
- Excessive bulk (as a result of the floor space ratio)
- Insufficient side setbacks

### General

- Visual privacy concerns from side facing windows
- Extensive excavation of Hawkesbury Sandstone – from a disruption during construction standpoint and an environmental standpoint
- Parking and traffic conditions in the locality
- Excavation to side boundaries – potential for damage
- Social impacts resulting from the loss of medium density and more realistically affordable accommodation in place of luxury apartments and loss of low cost housing
- Excessive parking
- Increase in difficulty in on-street parking
- Options presented by the architect during consultation have not been translated to the final product, and there are many options to reduce the impacts
- Setting of a poor precedent
- Financial loss to nearby property owners as a result of the impacts associated with the development
- Request for a dilapidation report as a condition of consent should the application be approved

Two letters of support were also received, one from 95 Ramsgate Avenue and one from a local resident stating they were 'just across the road' (an email submission with no residential address).

### Compliance

Following is a summary of the standards and controls applying to the subject application.

COMPLIANCE CHECK – Residential 2(b) Zone			
Control	Standard	Proposed	Compliance
Minimum Frontage	• 15m	• 24.38m	• Yes
Height	• Wall height 6.5m	• 9.21m rear; • 10.53m front; • 11.43m max centre	• No • No • No
	• Overall height 9.5m	• 11.43m	• No
	• Number of storeys 2	• 3 storeys plus	• No

		'part additional floor'	
	<ul style="list-style-type: none"> <li>Maximum pitch 35°</li> </ul>	<ul style="list-style-type: none"> <li>Mansard form</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Maximum Site 954.84m <sup>2</sup>	FSR Area <ul style="list-style-type: none"> <li>0.6:1</li> <li>572.9m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>1.24:1</li> <li>1,183m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>No</li> </ul>
<b>Cont...</b>			
Setbacks	Front setback <ul style="list-style-type: none"> <li>6m (or predominant)</li> </ul>	<ul style="list-style-type: none"> <li>6m</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
	Rear setback <ul style="list-style-type: none"> <li>6m</li> </ul>	<ul style="list-style-type: none"> <li>5.5m</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
	Side setbacks <ul style="list-style-type: none"> <li>3m and 4.5m for living areas facing side</li> </ul>	Basement and Level 1 <ul style="list-style-type: none"> <li>Nil on both sides</li> </ul> Level 2 and 3 <ul style="list-style-type: none"> <li>3.1m (no living areas primarily facing side)</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> <li>Yes</li> </ul>
Building Length	<ul style="list-style-type: none"> <li>Maximum 24m</li> </ul>	<ul style="list-style-type: none"> <li>18m</li> </ul>	<ul style="list-style-type: none"> <li><b>Yes</b></li> </ul>
Building Depth	<ul style="list-style-type: none"> <li>Maximum of unit is 18m</li> </ul>	<ul style="list-style-type: none"> <li>22.5m (up to 29m including decks)</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Side fences	<ul style="list-style-type: none"> <li>1.8m max height</li> </ul>	<ul style="list-style-type: none"> <li>Stepped up to 3.9m</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Landscaping	<ul style="list-style-type: none"> <li>Minimum 30% or site as deep soil zone</li> <li>Minimum 286m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>12%</li> <li>117m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> <li><b>No</b></li> </ul>
	<ul style="list-style-type: none"> <li>Minimum 50% of deep at rear of site</li> <li>Minimum 143m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>100%</li> <li>117m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li><b>No</b></li> </ul>
	<ul style="list-style-type: none"> <li>Minimum 30% of deep at front of site</li> <li>89m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>0%</li> <li>Nil</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> <li><b>No</b></li> </ul>
	<ul style="list-style-type: none"> <li>2m soft strip along side</li> </ul>	<ul style="list-style-type: none"> <li>Not achieved</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
	<ul style="list-style-type: none"> <li>Additional 10% soft</li> </ul>	<ul style="list-style-type: none"> <li>Nil additional</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Communal space	<ul style="list-style-type: none"> <li>15% as communal</li> </ul>	<ul style="list-style-type: none"> <li>No communal space</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Sunlight	<ul style="list-style-type: none"> <li>70% of units minimum 3 hours</li> </ul>	<ul style="list-style-type: none"> <li>5 of 6 units (83%) receive</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>

	9am-3pm	adequate sunlight to living rooms and private open space during 9am-3pm	
Ceiling Heights	<ul style="list-style-type: none"> <li>Residential 2.7m</li> </ul>	<ul style="list-style-type: none"> <li>2.7m</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Attic Rooms	<ul style="list-style-type: none"> <li>Minimum width 3m</li> <li>Height 2.4m for 2/3 of room</li> <li>Attached to lower unit &amp; not living or dining room</li> </ul>	<ul style="list-style-type: none"> <li>4.8m</li> <li>2.4m for 82% of room</li> <li>Attached to lower unit and bedrooms</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> <li>Yes</li> </ul>
<b>Cont...</b>			
Private Balconies to upper units	<ul style="list-style-type: none"> <li>Minimum area 10m<sup>2</sup></li> <li>Min. depth 2.5m</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>2</sup></li> <li>&gt; 2.5m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>
Courtyards to ground level units	<ul style="list-style-type: none"> <li>Minimum area 25m<sup>2</sup></li> <li>Min. width/depth 3m</li> </ul>	<ul style="list-style-type: none"> <li>&gt; 25m<sup>2</sup></li> <li>&gt; 3m wide</li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> <li>Yes</li> </ul>
Storage Facilities	<ul style="list-style-type: none"> <li>Three bed unit 10m<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>&gt; 10m<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Apartment Mix	<ul style="list-style-type: none"> <li>Studio/1 bedroom 35%</li> <li>2 bedroom 50%</li> <li>3 bedroom 15%</li> </ul>	<ul style="list-style-type: none"> <li>100% 3 bedroom</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> </ul>
Minimum unit size	<ul style="list-style-type: none"> <li>3 bedroom 100m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>&gt; 100m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Yes</li> </ul>
Parking Spaces (Parking Zone B)	<ul style="list-style-type: none"> <li>Min 6 – Max 9 spaces</li> <li>Nil visitors</li> <li>8 Bicycles</li> </ul>	<ul style="list-style-type: none"> <li>12 spaces</li> <li>Nil visitors</li> <li>None shown</li> </ul>	<ul style="list-style-type: none"> <li><b>No</b></li> <li>Yes</li> <li><b>No</b></li> </ul>

## Issues

An assessment of the application has raised a number of issues with the current proposal. The main issues are summarised as follows:

### Building Height

The height of the proposal exceeds the controls by up to 4.93m at the centre of the site. It is noted that the existing buildings to be demolished also exceed the Council's controls as do a significant number of surrounding properties.

In these circumstances, it is not considered reasonable to assume that a replacement building on this site will fully comply numerically with the DCP control for height, as in

some cases this would result in buildings up to 3 storeys lower than what is currently accommodated on some sites.

In line with good town planning practices, the stance of the Land and Environment Court and the reasonable expectations of the community, any redevelopment of these sites should benefit from the existing building envelope where this is beyond Council compliance and any additions to those buildings above and beyond that non-compliance should have minimal and acceptable impacts upon adjoining properties and be sufficiently justified.

The height of this development is the most serious non-compliance with Council's controls; results in the most direct and measurable impacts upon the adjoining properties; and is the focus of the majority of public submissions made to this proposal.

Excessive height can result in a number of adverse impacts, namely – overshadowing, visual intrusion into the streetscape or character of an area; and view loss.

In this case the overshadowing is considered acceptable and the impact upon the streetscape is potentially justifiable, however the view loss impacts to surrounding properties is unreasonable and forms one of three significant components of this application which are not acceptable and require amendment. The applicant has provided a significant amount of documentation in support of the additional height, in the form of an urban context report and a substantial view analysis report.

#### *Urban Context Report*

This report includes an analysis of the Ben Buckler headland and studies the height, FSR and setbacks of all surrounding buildings. The analysis shows a cluster of 4 storey developments to the east of the site on Brighton Boulevard and two significantly taller buildings immediately to the south of the site, being 4 and 5 storeys in height. Apart from those examples the area is dominated by three storey buildings. This report also draws upon existing setbacks and floor space ratios to justify the proposed development. The reliance on the excessive height of 162-164 Ramsgate Avenue to the south does not justify, on its own, the increased height sought on this site.

#### *View Analysis Report*

This report outlines the existing views enjoyed by surrounding properties and when read in conjunction with the view analysis diagrams and supporting 3D modelling, provides a thorough assessment of the view loss to those properties.

The report uses the principles set out in Tenacity Consulting vs Warringah Council to assess the reasonableness of the view loss from each of the units visited. A detailed assessment of each unit is provided further in this report. The conclusions of this analysis is that the height of the upper most floors accommodating bedrooms to the Level 3 units is directly attributable to significant view loss to a number of apartments. Given that this view loss occurs from a significant non-compliance with the Council's controls, and therefore the community's expectations for this site, these impacts are not considered reasonable.

Further development on the design, location and extent of these attic areas may reduce the impact upon these properties, and indeed the SEPP 65 Design Review Panel raised concerns that this design requires further consideration to minimise impacts upon view loss. Failing a satisfactory outcome from a redesigned attic roof form, the maximum height of the proposed development should be guided by the notion that it is not higher than the existing buildings and/or does not unreasonably reduce any sightlines from the properties located towards the east and southeast, which currently enjoy significant views.

In this context, it is considered that the reasonable and acceptable height of the proposal should approximate the proposed height of the roof terrace at RL28.230. This would allow for a development of three genuine storeys above a podium garage to replace a pair of 2 and 3 storey buildings in a zone that allows 2 storeys plus attics. This wall height is greater than the two existing buildings on the site and allows for additional bulk at the edges of the building however, these increases do not result in view loss, overshadowing or bulk related impacts.

### Floor Space Ratio

The FSR control for the site is 0.6:1; the existing FSR over the two sites is 1.21:1; and the proposed FSR is 1.24:1. The proposal is 610m<sup>2</sup> greater than the control allows and 29m<sup>2</sup> greater than the existing buildings on the site. Of note, there are a significant number of surrounding properties with similar or higher FSRs to that proposed here.

FSR when combined with setbacks and height is a measure of a development's bulk and scale. The floor space in the existing buildings is concentrated in the centre of each of the two sites and vertically emphasised in thin buildings. In the proposal however, the floor space is spread over the site with large floor plates 15 metres wide and more than 20 metres long. In addition, the floor area is lifted by its position above the podium style garage arrangement, albeit some rooms on the lower level towards the rear of the site are almost entirely subterranean. Included in the FSR calculations are the excess parking spaces in the garage (68m<sup>2</sup>) and the attic levels (120m<sup>2</sup>).

Whilst it may be arguable that the FSR itself does not result in any unreasonable impacts upon the adjoining properties its contribution to additional height and reduced opportunities for soft landscaping is such that it is a determinative issue. A floor space ratio similar to and potentially greater than the existing buildings on this site may be possible, but not in the form shown in this application.

### Rear setback

The rear setback is 5.5m to the edge of the building and the control seeks a minimum of 6 metres. The existing southern building is set back 6 metres from the rear and the northern building substantially more. The adjoining building to the south is set back slightly over 6 metres (with the exception of roof eaves) and the buildings to the north have setbacks of 6m or more.

The rear setback is an important control in this instance, as it also acts as the front setback when the property is seen from its address on Brighton Boulevard. The Council's front setback control is also 6 metres. The applicant states that the building itself is set back 6.63m to the glazing line, however the solid privacy screen devices on the balconies extend the visual bulk of this building to the outer edge of the balcony, and this point is 5.5m from the rear boundary. The proposal results in the shortest setback from the street along this side of Brighton Boulevard and this is not reasonable when considering this extends beyond a compliant building envelope. The building should achieve a 6m setback to the outer edge of the balcony to allow a consistent reading of the rear building line as viewed from Brighton Boulevard.

### Side setback

The nil setback to the level 1 bedrooms is unacceptable. The nil setback requires excavation adjacent to the side boundary, which is discouraged, and provides solely for a bedroom and ensuite located almost entirely underground. In addition, the nil setback removes the potential for a compliant landscaping strip of 2 metres down the length of the site, a component of the application seen as a serious failing given the opportunities created by amalgamating two sites with more than 24 metres of frontage.

The amalgamation controls in the DCP (requiring more than 15m frontage for a residential flat building when typically sites in Waverley are 12.19 metres wide) have been developed with the intention that side setback and landscaping strip controls are more viable on these sites and allow for greater separation between buildings with vegetated buffers. There is no justification for the nil setbacks on level 1 given the width of the site and the nature of the application including a brand new building.

### Landscaping

A total of 12% of the site is deep soil landscaping, less than half that is required in the DCP. This is in part due to the extent of the podium level garage which extends to both side boundaries and the continuation of the nil setback to the bedrooms on Level 1.

The omission of a 2m wide landscaping strip to one side of the development is not acceptable. This site offers opportunities on both sides to have significant plantings in deep soil zones. This omission is a significant failing of the application.

In addition, whilst the rear yard areas of the level 2 units has been included in deep soil planting calculations, the landscape plan shows this area to be paved, and therefore the amount of available area for deep soil planting is even less.

The application should be amended to introduce a genuine deep soil landscape strip and increased opportunities for deep soil planting.

### Car Parking

The proposal includes parking for 12 vehicles, 2 for each unit. The maximum number of parking spaces as per the DCP is 9. Whilst it is reasonable to assume that each luxury

apartment will be occupied by people with (at least) 2 cars, the purpose of Council's controls is to reduce the reliance on private car ownership and promote alternative modes of transport. The site is located within walking distance to the North Bondi Bus Interchange, provided services direct to Bondi Junction Train Station for connecting services.

Council does not support additional parking above the DCP controls, as is seen consistently across small scale luxury apartment like this development up to large scale redevelopments across Bondi Beach. The premise of this stance is valid and aligns with the emerging recognition that alternative modes of transport are the most environmentally viable option for the future. This approach to reducing car dependency is reasonable and goes to the wider planning outcomes for Metropolitan Sydney. The Council's car parking maximum should not be exceeded.

In addition, the excess car parking translates to additional basement area which could otherwise be redesigned and reduced to allow for genuine deep soil planting on the site.

### **Waverley Design Review Panel (WDRP)**

The application was considered by the Waverley Council's Design Review Panel under the provisions of the State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development. The WDRP raised some issues with the application especially in relation to view loss from properties located across Brighton Boulevard. The applicant was provided a copy of the minutes. A copy is also attached for your information.

### **Correspondence with the applicant:**

A meeting was held with the applicant on 24 August, 2010. The applicant was advised that Council is of the view that the proposal in its current form cannot be supported. The proposal has three significant failings i.e. unacceptable view loss due to the proposed additional height, minimal mature landscaping due to nil side setbacks and excessive parking.

The applicant was further advised to intimate Council within a week as to whether they would be willing to amend the proposal in light of the discussions held on 24 August.

### **CONCLUSION**

**The application is not supported in its current form.** The proposal has three significant failings – view loss (due to proposed height), landscaping due to nil setback and parking.

### **View loss (height)**

The additional height above the existing overdevelopment on these sites results in severe view loss impacts upon the surrounding properties, particularly those to the east and south-east of the site in Brighton Boulevard. The view loss is a direct result from a significant non-compliance with the height control and relates to the attic roof forms which essentially occupy the fourth storey in a zone which allows a maximum of 2 storeys with attic additions above. The applicant was made aware of this issue as part of the Pre-DA that any view loss that resulted from a non-compliance with Council's controls would be difficult to justify.

### **Landscaping/nil setback**

The proposal takes advantage of the DCP controls which encourage the amalgamation of two sites into one but does not deliver the envisaged benefits of that control by proposing insufficient deep soil landscaping and a nil setback to both the garage level and level 1, with proposed bedrooms that are built almost entirely underground with one west facing window. Excessive excavation results due to maximum parking controls being breached. The extended excavation is a new element that was not part of the Pre-DA discussions.

### **Parking**

The proposal seeks 12 car spaces in lieu of the maximum 9 as required under Waverley DCP 2010. The additional parking is not justifiable in this location with good access to alternative modes of transport. The applicant was made aware of Council's position in the Pre-DA and the number of car spaces have not been reduced.



