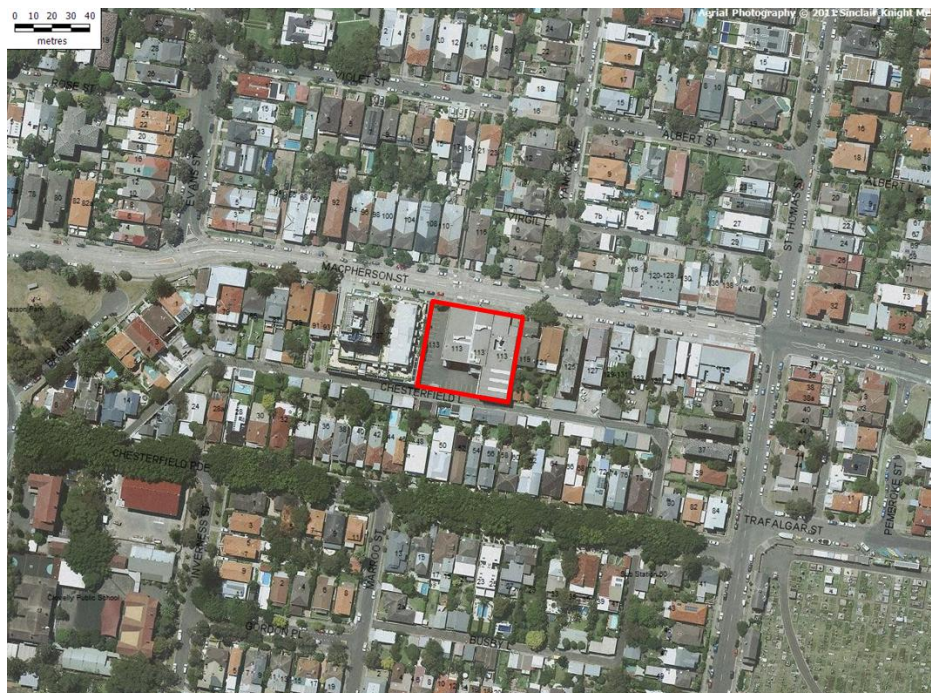


# DEVELOPMENT APPLICATION ASSESSMENT



<b>Application number</b>	<b>DA-72/2013</b>
<b>Site address</b>	<b>113 Macpherson Street Bronte, known as the 'Bronte RSL site'</b>
<b>Proposal</b>	<b>Demolition of the existing Bronte RSL and construction of a six (6) storey mixed-use building consisting of basement parking, ground floor retail, first floor Club, residential units above and subdivision.</b>
<b>Date of lodgement</b>	<b>7 March 2013</b>
<b>Owner</b>	<b>Bronte RSL Sub-branch</b>
<b>Applicant</b>	<b>Winston Langley Burlington</b>
<b>Submissions</b>	<b>425 submissions; 3 Petitions totalling 2098 signatures in opposition 4 letters of support</b>
<b>Cost of works</b>	<b>\$24,768,810</b>
<b>Issues</b>	<b>Land Use (Supermarket and Club), Bulk and Scale, Traffic/Parking, Design/Character</b>
<b>Recommendation</b>	<b>That the application be REFUSED</b>

## Site Map



## 1.1 SITE AND SURROUNDING LOCALITY

Site visits were carried out on 6 May and 10 June 2013.

The site is identified as Lots 19, 20, 21 in DP 192094 and Lot 22 in DP 72912, known as 113 Macpherson Street Bronte. The site is rectangular in shape with a street frontage of 48.48m to Macpherson Street, and a depth of 45.75m, resulting in a total site area of 2231m<sup>2</sup>. The property also enjoys rear lane access from Chesterfield Lane. The site has a significant cut in its topography as it was previously a quarry. Approximately 2.7m into the site from Macpherson Street there is a 5.4m vertical drop which generally aligns with the level of Chesterfield Lane.

The site is occupied by a two and three storey building which contains the Bronte RSL. All vehicular access to the site is from the rear off Chesterfield Lane, including staff and patron parking and loading facilities.

To the west of the site is the 10 storey Oceanview Apartments, an anomalous building built in the 1960s that formally operated as the Charles Hotel but was converted to residential in the mid 1990s. To the east of the site are two storey residential buildings including dwellings, duplexes and residential flat buildings.

On the opposite side of Macpherson Street are single storey dwellings, some detached and some semi-detached. To the rear across Chesterfield Lane are residential dwellings, some detached and some semi-detached which face Chesterfield Street. There is an emerging development trend for these properties to have two storey secondary structures presenting to the lane.



Figure 1: Subject site frontage





Figure 2: Site viewed from Macpherson Street from the east



Figure 3: Site viewed from Macpherson Street from the west



Figure 4: Site viewed from Chesterfield Lane from the east



Figure 5: Site viewed from Chesterfield Lane from the west



## **1.2 PROPOSAL**

The proposal includes the demolition of the existing Bronte RSL building and construction of a six (6) storey mixed-use building.

The building contains a retail level accessed from Macpherson Street and a lobby to the first floor club above. The retail areas are split into 3 tenancies, being 69m<sup>2</sup>, 112m<sup>2</sup> and 743m<sup>2</sup> with and additional 285m<sup>2</sup> back of house.

Separate twin lobbies on either side of the building provide access to the 24 residential apartments above the club levels as well as 4 units at the rear of the club on level 1. Communal open space for the residential apartments is located on level 2 and includes a swimming pool.

Parking is proposed over 3 levels, 2 of which are above the Chesterfield Lane alignment (being below the Macpherson Street level) and 1 being genuinely underground. The parking levels have separated parking for retail, club and residential uses. Parking for the retail and club is accessed via Macpherson Street and parking for the residential units is from Chesterfield Lane. Loading facilities are also provided off Chesterfield Lane via separate entrances.

The proposal also includes stratum subdivision to create two lots, being one Lot for the Club on level 1 and storage in the basement (but no parking) and one Lot and for everything else.

## **1.3 SITE HISTORY**

The site was originally excavated as Beat Brothers Quarry one of Waverley's largest quarries of the late 19th and early 20th Centuries. The quarry excavation is occupied by a three level club building rising two levels above the Macpherson Street frontage and three to the rear Chesterfield Lane. The site sits adjacent to a 10 storey residential building itself an adaptation of a 1960s hotel building. The streetscape is characteristic of Federation era tram stop settings with one and two storey residences interspersed with two storey retail/residential buildings of Federation and Inter War origins. These are regularly distributed along Macpherson Street signifying the location of previous tram stops.

The building is not listed in Waverley Local Environmental Plan (LEP) 1996 Schedule 5 as an item of heritage significance. The Bronte RSL established at a meeting in the Castlefield Street Scout Hall Bondi on 10 Sept 1946. Following lease of the former Beat Bros quarry from the Beat family and acquisition of a naval hut from the Commonwealth Disposals Commission the club opened at the current site on 25 March 1947. An adjacent site was also purchased and the club expanded to incorporate tennis courts and indoor games rooms. The club was licensed in 1955. The original and later buildings were demolished to enable construction of the current club building in the early 1970s.

## **1.4 RELEVANT DEVELOPMENT APPLICATION HISTORY**

In February 2012 a submission was made on behalf of the owners of the site to the draft Standard Template LEP suggesting an uplift of floor space ratios (FSR) and Height for the site.

In March 2012, in response to the submission, the Council resolved that the Macpherson Street Neighbourhood Centre (to which this site belongs) be subject to a future assessment as part of the first amendment to the Standard Template LEP (now the Waverley Local Environmental Plan 2012 - WLEP) later that year, rather than as part of the adoption of the LEP itself.

In October 2012 the WLEP was adopted.

In February 2013, having commissioned an Urban Design Report by Olsson and Associates Architects, an Economic Study by Hill PDA, a Traffic Report by GTA, as well as conducting community consultation, Council resolved to lodge a Planning Proposal for the Neighbourhood Centre. Changes for this site are limited to an additional 'permitted use' for a 'Registered Club (Bronte Returned Services Club only)' and a cap on retail areas of 400m<sup>2</sup>. No uplift in FSR or Height is proposed. A draft Development Control Plan (DCP) amendment sits alongside the LEP amendment with specific building envelope controls for this site. Should the Planning Proposal be accepted, the amended LEP and DCP would be adopted concurrently.

On 7 March 2013 the applicant lodged this Development Application.

On 10 May 2013 Council Planners met with the applicant to outline 5 keys areas of concern, relating to height, the supermarket, loading facilities, setbacks and design.

On 17 May 2013 the applicant responded to the concerns. Council officers later confirmed that the applicant's response did not demonstrate a genuine commitment to addressing the issues to the extent requested.

On 11 June 2013 the applicant lodged their own alternative Planning Proposal.

On 16 July 2013 it was recommended to the Council to adopt the Council's Planning Proposal to amend the LEP as exhibited and forward it to the Department of Planning and Infrastructure and request it be prepared by Parliamentary Council. In addition to this, it was recommended that the Council not support the Applicant's Planning Proposal.

This DA report has been published on 9 July 2013 and the outcome of the Council meeting was not known.

Should the Council resolve to adopt their Planning Proposal, this Development Application is still subject to the controls current at the time of lodgement (March 2013), that is, the current WLEP 2012, whereas the draft LEP can be considered and given the weight of a 'draft'. The draft DCP however cannot be considered.

Should the Council resolve to accept and progress the applicant's alternate Planning Proposal, it would be reasonable to suspend the assessment of the DA until the outcome of the Planning Proposal through the gateway process was concluded.

## 2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under Section 79C of the Environmental Planning and Assessment Act 1979.

### 2.1 SECTION 79C (1)(A) PLANNING INSTRUMENTS AND DCP

#### SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent, if granted, would ensure the measures detailed in the BASIX Certificate are implemented.

#### SEPP 55 Remediation of Land

There is no known history of contamination applicable to the site. The subject site has historically been used as a quarry and then as a club. A Phase 1 Contamination Assessment has also been conducted and based on ownership records, permit records and geology, has concluded that land contamination is unlikely and no further investigation is necessary. A condition regarding monitoring of the excavation would be required.

#### SEPP 65 Design Quality of Residential Flat Development

The application has been assessed against the 10 principles of the SEPP by the Joint Randwick/Waverley SEPP 65 Design Review Panel. Their comments are below in italics and a Planning comment provided after each Principle.

##### 1. Relationship to the Context of the Proposal

*This application is for a major site in Bronte. Located on the south side of Macpherson Street, which sits atop a major ridgeline, the site is highly prominent and enjoys commanding views, particularly in the arcs to the north and south. The lot was apparently a former quarry for the cemetery, which explains the significant excavation, so that the floor of the site is level with Chesterfield Lane to the rear, fully two storeys below Macpherson Street.*

*Macpherson Street is the local main street, with good bus services and a fine alignment and vista. With its direct continuations into Bronte Road / Leichhardt Street, it has a number of local shopping centres distributed along its length, which together serve the area well with smaller shops, services and cafes. These centres include Bronte Beach, St Thomas Street and Lugar Street, with the larger centre of Charing Cross to the west.*

*The site has long been occupied by the RSL Club, which has grown in an ad hoc way over many decades. This community building has large internal spaces, and has a strong, though architecturally undistinguished, presence on both the street and the lane. Like many clubs in recent times across Waverley LGA, the club faces financial difficulties supporting premises that are considerably larger than their current needs and capabilities.*

*The Panel notes that two site-specific Urban Design studies have been recently prepared for the site by reputable practices, one for the applicant (GMU), the other for Council (Olsson). Both tend to focus on development issues of appropriate bulk and scale, each providing coherent discussion.*

### *Public Domain Improvements*

*Not identified in either report are opportunities to improve the public domain, to maximise benefits not just to the site or immediate neighbours, but also to the wider Bronte area. The Olsson report (for Council) has a series of diagrams that clearly indicate that this is an anomalously long block in the area, with the U-shaped Chesterfield Lane only connected at both ends to Chesterfield Avenue further to the south. This means that the lane has two bends at each end, restricting both view lines out and maneuverability. This is an added impediment, given that it serves the rear of the shops along its eastern part, and issues opposite Clovelly Public School at its western end.*

*The Panel strongly recommends that a better solution would be to transform the proposed 7.45metre driveway along the western boundary into a dedicated 7.50m public lane (with no private structures under), connecting north-south from Macpherson Street to Chesterfield Lane. Such a lane could:*

- provide better pedestrian and cycle access throughout the area, making the urban structure more permeable for all and encouraging walking. The lane would match and give access to Yanko Avenue on the opposite side of Macpherson Street*
- specifically improve pedestrian access to Clovelly School, and add a convenient short cut to the local shops and bus stops*
- give all existing and new residents with frontage to the lane a 'back door' to the shops*
- have some active frontage, individual entries to units above, or the like*
- have excellent surveillance from the larger buildings to either side*
- have a planted footpath along its edge*
- have traffic management so that all additional traffic generated by the development comes directly off Macpherson Street*

*The lane would have specific benefits for the adjoining properties:*

- provide adequate separation between the subject site and the neighbour to the west*
- have separate entries to both upper and intermediate car park levels, thus dispensing with the need for the interconnecting ramp between levels*
- the dedication of the lane would slightly reduce the size and therefore number of the car parking spaces, which is consistent with Council's comments and codes*
- a truck dock may be able to be accessed off this new lane – even if that was not possible, the truck movements could be confined to this new section, reducing movements along both Chesterfield Lane and Avenue*

*Adding a new connecting laneway would have the further benefit of reducing or halving the travel distances along the lane for all properties that currently use it, as the lane would provide a central outlet to the main street (Macpherson Street). This would lead to a commensurate reduction in traffic in Chesterfield Avenue and St Thomas Street.*

*Additionally Chesterfield Lane should be widened by a 1 metre dedication along this site's entire frontage, and a splay could be added between the new lane and it to facilitate truck turning if needed.*

### *The Varied Context*

*The eastern neighbours comprise the Macpherson / St Thomas Street shops, which comprise a mix of predominantly 2 and 3 storey buildings built to the street alignment. In the vicinity are a number of 4 storey flat buildings, and also a diversity of lower height*



*houses. To the site's immediate west is the largest building in the area, the 10 storey Ocean View apartments, which is a conversion of the former Charles Hotel. The applicant's urban design report by GMU, puts significant store on the scale of this neighbour.*

*The Panel suggests that a convincing case needs to be made for the appropriateness of any height above 4 storeys in this location. This would need to be based on very thorough analyses of its context, this unique site and the relationship of the proposed building to it. The GMU report states it is a preliminary assessment in written form only, which lacks any mapping of the proposal in relation to the broader urban situation. The architectural drawings have almost no broader contextual information. In the Panel's opinion, further justification is required.*

*This DA proposal lacks the same rigorous contextual analysis, although various montages showing the context forms part of the submission. The montages give little sense of the relationship of the building to the urban context, nor indeed the character of the proposal. The sections and elevations need to be extended to include the neighbouring public domain, lot boundaries and buildings.*

*The Panel was not supplied with shadow diagrams in its package, though they were tabled at the meeting. The shadow diagrams did not seem to clearly distinguish existing and new shadows, and would be best supplied in both plan and 3-d view, with the camera in the position of the sun as well as showing where critical windows are affected.*

#### *Neighbourhood Centre Controls*

*The Panel had previously noted that a new DCP has recently been prepared for such local centres. Based on the analysis presented in the Olsson report, in the Panel's opinion the DCP should have taken existing heights and floor space ratios into account. Such a review would have endorsed a higher floor space. The Panel notes that many local centres across the Eastern Suburbs and elsewhere in metropolitan Sydney have floor space ratios of 1.0:1, 1.5:1 or 2.0:1.*

*The Panel is unsure why a local centre with such abundant amenity as Macpherson / St Thomas Street would have a floor space at the low end of this spectrum.*

### **Planning Comment**

The Panel has raised four points:

1. There is scope for a through site link on the western side of the site.

The prospect of a through site link was first discussed in a 2004 Urban Design Review of the Macpherson Street shops. At that time the Council did not endorse these recommendations based on concerns about safety and the lack of genuine through-access to a desired pedestrian destination.

Had the alignment carried through to Chesterfield Parade for example (through the rows of dwellings) then there would be an improvement to permeability. However the through site link discharges onto a laneway which directs pedestrians east and west along Chesterfield Lane's narrow (or non-existent) footpaths with no real advantage to the existing pedestrian network.

For the same reasons outlined in 2004, this recommendation is not endorsed.

2. Further justification is required to rely on the height of the adjoining 10 storey building for the height variation sought.

Subsequent to this, the applicant has provided additional documentation to the Council aimed at justifying the additional height that is proposed. This includes an Urban Design Report by GMU. The report focuses on the lack of additional overshadowing impact from the ziggurat design and the scale of the 10 storey Oceanview Apartments to the west. It also recommends that the height controls for the adjoining sites to the east, including the residential buildings and shops further east, and those shops across the road to the north, currently at 9 and 9.5 metres (3 storeys) should be increased to 13 metres (4 storeys) as a holistic approach to rationalise the height of the 10 storey Oceanview Apartments. This would provide for a significant uplift in the whole Neighbourhood Centre. Further uplift is proposed on the eastern side of St Thomas Street, with a recommendation that these buildings (including 'Bronte View') are up-zoned to Medium Density Residential with a height limit of 13m. These recommendations also form part of the applicant's response to Council's Planning Proposal and their own recently submitted Planning Proposal.

This is an entirely different prospect to what the current controls allow. It goes to the point that the extent of variation sought in this Development Application is too significant and would be better placed as a Planning Proposal to amend the controls. The controls are currently under review, by virtue of Council's Planning Proposal which has been informed by Urban Design and other technical reports. Council does not propose to uplift this area in their Planning Proposal and unless successfully challenged by the applicant, either by their submission to Council's Planning Proposal or through adoption of their own Planning Proposal by the Department of Planning and Infrastructure, it is not reasonable to approve the scale of building proposed in this Development Application.

3. Overshadowing analysis was unclear.

The applicant has provided detailed overshadowing analysis despite it not being reviewed by the Panel. Conclusions about the extent of overshadowing are discussed later in this report as this is not solely a SEPP 65 consideration.

4. By comparison this Neighbourhood Centres' floor space ratio appears too low.

This opinion is not endorsed. All 8 of Waverley's Neighbourhood Centres within Business Neighbourhood zones have a floor space ratio of 1:1. Interestingly, this Neighbourhood Centre enjoys the greatest height control:

Centre	Controls
Blake Street Centre	9 metres / 1:1
Murriverie Road Centre	9 metres / 1:1
Murray Street Centre	9 metres / 1:1
Bronte Beach Centre	9 metres / 1:1
North Bondi Centre	9 metres / 1:1
Glenayr Avenue Centres (2) - 7 Ways and Curlewis St	9 metres / 1:1
Old South Head Road Centres (3) - Flood St and Murriverie Rd - Blair St (*The site is zoned B4 Mixed Use)	9 metres / 1:1 13 metres / 1.5:1*
Bronte (Macpherson St) Centres (3) - East Centre at St Thomas St - Western Centre (Simpson Park) - <b>Bronte RSL site</b>	9 metres / 1:1 9m and 13m / 1:1 <b>13 metres / 1:1</b>

## 2 & 3 Scale & Built Form of the Proposal

*The proposed mixed-use building replaces the undistinguished RSL building, which has a blocky, additive form of between 2 and 4 storeys.*

*The Panel considers that there are a number of positives in the proposed built form:*

- the handling of the various entries to the street front is well handled. The retail frontage takes the central part, with an identifiable and discrete club entry to its east. The residential entries are logically placed on the outside, open to light and air, with reasonable sightlines*
- the RSL is appropriately located on the first floor to the street front, with a wide verandah overlooking the street. The back of house areas occupy the 'dead' part of the plan, in the centre of the floor plate*
- the 3m setback of all levels, including the basement, from the eastern boundary. This would allow deep soil planting along this side boundary. The Panel sees no problem with this break being expressed as a gap in the streetwall*
- the relationship to the neighbours to the west is reasonable - the neighbours 'borrow' their amenity across the boundary, whereas this development is adequately setback. As noted above the driveway should be replaced by a public laneway and deep soil planting.*
- the residential components are generally arranged in a U-configuration, open to the south. The projecting wings of the U step down towards the south to generally limit overshadowing (see further comments below)*
- most of the residential floor plates are well planned, with a fairly thin cross section (with the exceptions noted below)*
- a good proportion of units have north facing living rooms and balconies*
- the residential lobbies are quite well located, reasonably compact in their arrangement (see further comments below)*
- an awning is provided to the major street frontage*

*The Panel considers that there are a number of areas which indicate an over development or that require re-thinking of the design's scale and built form. The Panel recommends that a number of design and organisational issues need to be improved and resolved, to overcome current shortcomings and make a better building, including:*

- the rear of the car parking and ground floor retail areas present as a foreboding block in a ziggurat form – they seem undeveloped in their design, too defensive and lacking amenity. There is no reason why they need to be so solid, nor why they cannot accommodate more habitable areas*
- the lane frontage risks being treated as a dumping ground for various services, whereas the building should make a positive contribution to the lane as it offers opportunities for desirable activation. A much more compact and considered approach to services is needed, and there is no reason why the foyer, the retail spaces or secondary retail could not be more open to the new and existing lanes. Preferably the ground floor could be set in and a public footpath created for the full Chesterfield Lane frontage*
- the Panel questions whether a loading bay should be included on the site - there is more than usual street and lane frontage for the amount of retail requiring deliveries. A loading bay is a poor use of available space. Many successful inner city retail areas operate without loading docks.*
- insufficient information is provided on the ground floor retail, openings to the street, activation, etc. Cafe or restaurant uses would require kitchen exhausts*



*and the retail areas may require more plant than is indicated. External exhaust and intake grilles should be indicated on the drawings.*

- the two central units on level 1 have exclusively south facing, with a deep set living room and 'snorkel' bedroom. These units have very poor amenity and should be completely removed.*
- on levels 2 and 3, the central projection intrudes too far into the U – this part should be deleted, which would allow a larger communal courtyard, with direct view between the cores. This part is also in excess of the 18m maximum depth in the RFDC*
- the cores could be more efficiently planned for residential amenity. Neither the stairs nor the lift need to be located on the external wall – it would be better to have the single sided units having more frontage to east and west*
- the 3m setback to the eastern boundary is too little for the projecting arm of the U – it should be increased to meet the RFDC setbacks relative to the height. The 3m setback should be retained to the street front*
- the current resolution of the façade is inadequately resolved in terms of its solar performance, window operation, balustrades and handrails, material quality and construction – see #10 below*
- there is inadequate shelter over all the south facing openings*
- the landscape proposals indicated are inadequate – see #6 below*

*It is worth noting that horizontal scale along a street can be just as significant as height. The proposed monolithic façade is incompatible in scale with Macpherson Street's existing built form (even with the building to its west which, in itself, is not a good precedent), but with different treatment need not be.*

*The Panel considers that all the above deficiencies need to be addressed to produce a more convincing scheme.*

### ***Planning Comment***

These comments are generally endorsed, with the exception of the advice to dedicate a 1 metre strip as a footpath at the rear of the building. The issues are numerous because the building is too large. A smaller footprint building would have far fewer issues of internal amenity and variations from the Residential Flat Design Code. The building is indeed monolithic as suggested and is filled with floor space at the expense of amenity.

The comments regarding the loading facilities are also endorsed. Should this site be redeveloped to its potential yield envisaged by the controls, there would far less retail area, perhaps 4 or 5 small shops, and perhaps half the number of units. The parking demand for this would conceivably fit within one level of parking at grade from Chesterfield Lane and there would be no need for on-site loading facilities, just like the rest of the shops in this Neighbourhood Centre which rely on kerbside loading from smaller vehicles. These rates are calculated at point 9 below.

### ***4 The Proposed Density***

*The proposed density of the DA is 2.09:1, whereas Council controls stipulate 1.0:1. From the Olsson report, the Panel understands that a number of existing surrounding buildings have higher FSRs. However, the Panel considers that insufficient justification is presented to support such an increase.*

*However, it is the Panel's view that an FSR in excess of the DCP could be suitable in this context. Such an increase in density could be reasonable if there were to be public*

*domain improvements, a positive urban proposition, few impacts on neighbouring properties, and no compromise of the internal amenity of the proposal.*

*However public benefits would need to be increased and the proposal would need to be reduced due to problems identified in this report in terms of scale, relationships, built form and amenity.*

### **Planning Comment**

The FSR controls are in the LEP (not DCP as stated) and there is a methodology for considering variations to this development standard which includes, amongst other considerations, measuring the public interest of the proposal achieving the objectives of the standard as well as the public benefit in maintaining the standard. The proposal does not sufficiently address this criteria to justify the extent of variation proposed.

### **5 Resource and Energy Use and Water Efficiency**

*Almost all apartments appear to have basic cross ventilation. Generally good solar protection is proposed. An OSD is located within the basement – is storm water retention and reuse factored into the proposal?*

*The following matters should be addressed:*

- All windows and doors must be detailed so as to allow them to remain secure when partially open (this is important if relying on sliding doors and high level bedroom windows for cross ventilation). Window operation should be noted on the elevations.*
- A large scale section/ elevation showing how bedrooms can retain privacy, BCA compliance and still achieve some cross ventilation*
- Environmental modelling that tests the effectiveness of cross ventilation in the proposed configuration (this should not just be abstract numbers and arrows, but take account of the actual conditions and probable use)*
- Ceiling fans should be provided in all habitable rooms and indicated on drawings.*
- More use could be made of shaded and ventilated skylights on roofs. A roof section that utilises ventilating clerestory windows, placed to capture winter sun would be more effective.*
- Roofs should be fully insulated and ventilated.*
- Sunshading appropriate to orientation should be provided. Many windows are shaded in the proposal however there are some areas of glazing that appear to be exposed to heat gain.*

### **Planning Comment**

These issues could be addressed through minor amendments or as conditions of consent.

### **6 The Proposed Landscape**

*In the Panel's appraisal, the landscape proposals are thin and not sufficiently matched to such a major site and scheme. Proposals for footpath and laneway upgrading and street trees should also form part of the application.*

*Access to elevated planting areas for maintenance does not seem to have been adequately considered.*

*The Panel is concerned at the minimal deep soil planting, and the lack of appropriate planting in the limited deep soil area proposed along the eastern boundary.*

### **Planning Comment**

Some of these issues could be dealt with via minor amendments or conditions of consent, however the lack of setback on the eastern side of the building and the extent of excavation to all other boundaries limits the potential for genuine deep soil planting. Of the 2231m<sup>2</sup> site, only 73m<sup>2</sup> (3%) is genuine deep soil planting and it is located at the rear corner of the site.

### **7 The Amenity of the Proposal for its Users**

*The proposed apartments generally have reasonable amenity, arising from design decisions made and the density pursued (see comments throughout this report). The Panel makes the following specific amenity comments:*

- Units Type H have an odd arrangement of the second bedroom seemingly opening off the kitchen, which is too embedded and away from windows*
- Units Types F and A (the central units) also have their kitchens too embedded and away from windows – these do not comply with the RFDC*
- The ‘snorkel’ bedrooms on Level 1 have inadequate daylight – 2 of these units should be removed, which would allow more amenity throughout*

*BCA advice needs to be sought regarding limitations on windows to the common walkways.*

*The Panel has no objection to the open common lobbies / stairs at all levels.*

### **Planning Comment**

The internal amenity is reduced by virtue of the extent of floor space and number of units on each floor. In these larger buildings it is possible to provide excellent amenity to all units if the number is reduced and there is greater use of the floorplate available.

### **8 The Safety and Security Characteristics of the Proposal**

*The proposal could add to the passive surveillance of the public domain in the area generally.*

*The BCA aspects of the proposal need to be checked, and elements of compliance demonstrated on the drawings.*

### **Planning Comment**

There is particular concern about the lack of casual surveillance to the rear lane created by the two storey streetwall adjacent to the parking levels and the third level back of house to the retail area. For a height of 11 metres, 3 storeys, there are no openings and no active uses along the laneway elevation that provide casual surveillance for the entire 48.48m width of the site. This is not acceptable.

### **9 Social issues**

*The dedication of a new connecting lane (see 1 above) would be a major public benefit, and needs to be included.*



*The proposed shops in this location are appropriate and should complement the existing lively street activation. There is a question of the size and type of market that should be allowed – the Panel is aware of many comparable centres with similar-scaled retail premises, and has no in-principle issue with the retail quantum proposed. However the Panel believes that the parking proposed is excessive, and should be reduced to Council's minimum.*

*Retaining the Club, even in reduced form, is an important social contribution to Bronte's diversity and amenity.*

*The Panel has no problem with the range of units sizes proposed, which introduce a welcome variety of accommodation in Bronte.*

### **Planning Comment**

As above, the laneway dedication is not supported.

The proposed retail quantum is considered excessive. There is 1998m<sup>2</sup> of retail/club floor area in this building. That is 90% of the total yield of the site. By comparison, the residential floor area on its own is also 120% of the total yield.

For a mixed development as is expected on this site, a rational proportion would be a 25/75 split of retail and residential accommodation on the site. If that were the case, and the proposal sought only the yield of the site permitted by the planning controls, there would be around 550m<sup>2</sup> of retail and 1675m<sup>2</sup> of residential. This would allow a maximum 18 retail parking spaces (instead of 66) and around 18 residential parking spaces (instead of 28). All of these parking spaces could be accommodated on one level of parking.

All of these factors point to the overdevelopment and excessive floor areas associated with all uses proposed for this site.

### **10 The Aesthetics of the Proposal**

*This design attempts a character which is a departure from the buildings in the vicinity. In order to be convincing, the design, detail and submitted drawings need to be far more thoroughly investigated and presented.*

*The mass has a certain logic and a reasonable handling of mass, and a physical model was prepared which demonstrated the 3-dimensional form of the proposed design.*

*However the design of facades appears too schematic and unresolved. Clearer design intent is required to size the façade elements. Refinement will depend on how well they are considered and detailed. 1:50 cross sections showing roof, awning, window, cladding, sun-shading, balustrade detail etc, should be provided as part of this application as in all applications.*

*Minor changes in façade treatment or setback along its length could help the building to fit better within the generally smaller scale frontages that characterise Macpherson Street and are unlikely to change in the near future. Additional long and cross-sections should also be provided, accurately showing all neighbouring buildings.*

*The Panel is also mindful of the architect showing a practicable solution that is viable for such an apartment building. Many times good materials have been shown in a DA, only to disappear before the building is realized in a perfunctory way.*

- *What is the material quality, fixing and jointing of the 'external metal finish'?*
- *How, and how often, will the 'veneer finish louvre' elements need to be maintained? What is 'blue cladding or similar'?*

*The lower level facades to the lanes and eastern boundary are poor - overbearing and unrelieved. The material character, construction and finish lack sufficient explanation and the desired aesthetic appears to be somewhat forced. Trees to the lane and additional activation at the building facade would assist in improving this elevation.*

### **Planning Comment**

Aesthetic issues could be addressed through minor amendments and additional information as discussed previously, however any architectural treatment can only go so far to reduce the monolithic form of the building proposed.

### **Panel Summary and Recommendations**

*The Panel considers that a good proposal for this important site is required, and that some flexibility with the current planning controls could be justified. However this proposal needs to be reduced in bulk, and the DA needs to present further design resolution to confirm its construction, performance and qualities, and to satisfactorily meet SEPP 65 / RFDC requirements.*

### **Planning Comment**

Within the locality there are several taller buildings, however they are few and far between. The taller buildings are single use residential flat buildings mostly built in the 1960s and 1970s, prior to the EP&A Act. Waverley's planning controls have recognised that tall buildings within low rise areas do not contribute to the character of the area. Planning controls have prohibited taller buildings for many years and recommend height controls reflecting the dominant height of buildings within the area (1 – 3 storeys with the occasional 4 storey building). Refer to the figure overleaf mapping buildings with heights greater than 4 storeys. As such, the existing tower to the west of the site is not considered as a precedent for the development.

Design objectives appear even less cognisant of the setting and include the stated aim of maintaining the 'high street' streetscape – a description unrelated to the predominantly residential setting with small retail groupings at former tram stops. Having noted the rarity of such a large site and its relationship to the similar former quarry site to the immediate west it would be anticipated that the planning/design approach would concentrate on the integration of these aberrant forms into a clearly defined setting of a much lower scale and intimate streetscape character. This would be achieved by breaking down the streetwall façade into bays to reflect the verticality of the street facades of adjoining commercial buildings and the localities small lot subdivision pattern. The proposed building is monolithic.

Despite the site being at the interface of low scale residential subdivisions to the south there is little or no acknowledgment of this in the design statement or the proposed design. In the proposed design Chesterfield Lane and the associated residences to the south are abutted by a sheer podium incorporating tall vehicle entries likely to be open for much of the time. The roller shutters to the openings are likely to provide a significant acoustic impact upon the setting.

The proposed design of the podium facing the lane and the single storey residence to the east exacerbates the bulk of the building. Rather than stepping down planter beds, the upper edge of the podium is raised to enclose vertical planting. In the age of the 'green wall' a far better design response would be considered the norm in the detailing of such a structure.



The Macpherson Street frontage incorporates a repetition and lengthening of the established massing despite the planning report describing this as unremarkable. No effort has been made to relieve the massing of the podium by inset, overlay of lower scaled elements as seen in the existing building or stepping back from the building line to the east to the inset building line to the west.

The overall scale of the building substantially exceeds the permissible height. This exceedence appears not to be accompanied by good planning, particularly in the residential apartments which provide both main and secondary bedrooms generally narrower than in the existing Federation and Victorian Housing characteristic of the area. Further, a significant number of bedrooms are devoid of direct solar access. The small rooms, lack of solar access and contorted access routes may all be attributed to the proposed number of units to each floor. As has been noted in the applicant's planning statement this is not a constrained site. The limitations to interior planning are solely the outcome of excessive numbers of units.

For these reasons the proposal does not achieve an appropriate urban design response to the site and its setting and fails against the Principles of the SEPP.

### SEPP Infrastructure (2007)

Clause 102 of the SEPP requires an assessment of the road noise or vibration on the development. In this respect an acoustic report has been prepared which outlines acoustic treatments necessary to achieve the relevant guidelines. Subject to conditions of consent, this clause is satisfied.



## Waverley Local Environmental Plan (LEP) 2012

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Waverley LEP 2012 – Compliance Table		
Development Control	Compliance	Comment
Part 2 Permitted or prohibited development		
Land Use Table	No  See 'Issues' below.	<p>The site is zoned B1 Neighbourhood Centre.</p> <p>The proposed development contains shoptop housing which is permissible, and a club which relies on existing use rights.</p> <p>The proposal fails against two of the three objectives, being:</p> <p><i>To provide a range of small-scale retail, business and community uses that serve the needs of people who live and work in the surrounding neighbourhood; and</i></p> <p><i>To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises.</i></p>
Part 4 Principle development standards		
4.3 Height of Buildings	No  See 'Issues' below.	<p>The maximum height control is 13 metres.</p> <p>The proposed building ranges from 20.4m above the existing ground level at the street frontage to Macpherson Street and 7m above the existing ground level at the rear laneway of Chesterfield Lane.</p> <p>Towards the centre of the site the proposed building is 25.95 metres above the existing ground level (or 21.9m above an assumed natural ground level).</p> <p>At its highest point, the proposal is 12.95m above controls, <u>seeking a variation of 100%</u>.</p> <p>The proposal fails against the control and the objectives of that control.</p>

4.4 Floor space ratio	No  See 'Issues' below.	The maximum floor space ratio for this site is 1:1 (2231m <sup>2</sup> ). The proposal has a floor space ratio of 2.09:1 (4668m <sup>2</sup> ).  The proposal is therefore 2437m <sup>2</sup> above the controls, <u>seeking a variation of 109%</u> .  The proposal fails against the control and the objectives of that control.
4.6 Exceptions to development standards	No  See 'Issues' below.	The application fails to justify the extent of variation being sought.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulphate soils	Yes	The site is within a Class 5 area. Works will not lower the watertable. No issues are raised.
6.2 Earthworks	Yes	This site has been previously excavated, being a former quarry. The proposal includes additional excavation towards the front of the site and an additional level of excavation generally. Impact mitigation measures would be required and would be imposed as conditions of consent if granted.

### Waverley Development Control Plan (DCP) 2012

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

<b>Waverley DCP 2012 – Part B General design provisions</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
1. Waste	Yes	Sufficient waste facilities have been provided in the basement which has direct lift access from all residential units and retail tenancies including the Club.
2. Energy and water conservation	Yes	The development satisfies the requirements of BASIX.

3. Biodiversity	No	The site is within a nominated habitat corridor, being identified as an area where vegetation provides for wildlife movement which allows dispersal, interbreeding and recolonisation to occur. The controls require 50% of the plantings to be indigenous or local natives and nominate preferred species. Of the 14 species identified in the landscape plan only 1 (a groundcover) is from the preferred list. All 5 proposed tree species are exotic.
4. Tree preservation	Yes	There are no trees currently on the site.
5. Stormwater management	Yes	Acceptable stormwater plans have been submitted.
6. Accessibility and adaptability	Yes	Of the 28 units proposed, 3 are nominated as adaptable, as is required by the control. There is also an accessible path of travel to all areas within the development.
7. Transport  Site within Parking Zone B.	No  See 'Issues' below.	<p><b>Residential</b> The control for residential parking rates allows a minimum of 19 spaces and a maximum of 28. There are 32 spaces proposed.</p> <p>The adaptable units (3) each have an accessible parking space as required.</p> <p>The number of residential visitor spaces required is 2. There are 2 proposed.</p> <p><b>Retail/Club</b> The control for retail parking rates does not require a minimum number of spaces (it allows for zero).</p> <p>The control allows a maximum of 40 spaces for the retail area. There are 41 proposed.</p> <p>A maximum of 26 spaces applies to the Club. There are 26 proposed, although 16 of these are nominated as 'RSL/Retail' and this would require amendment.</p> <p><b>Bicycles</b> The number of bicycle parking spaces required is 36. There are 37 proposed. Personal lockers and shower areas are also proposed at the required rate.</p> <p><b>Motorbikes</b> The number of motorbike spaces required is 20. There are 21 proposed.</p>

		<p><b>Loading</b> There is no requirement for residential loading facilities and none are proposed.</p> <p>The minimum loading facilities for the retail area and Club is 3 spaces. There are 3 spaces proposed as well as a 12.5m diameter turning circle to accommodate a larger vehicle.</p> <p><b>Travel Plan</b> A Green Travel Plan is required for this development. This has not been supplied as part of the DA documentation.</p>
8. Heritage	N/A	N/A
9. Safety	Yes	The development meets the controls for safety.

<b>Waverley DCP 2012 – Part C2</b> <b>Residential development – Multi Unit and Multi Dwelling Housing</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
2.3 Height	No See 'Issues' below.	As already discussed the height exceeds the development standard in the LEP. The variation does not satisfy the objectives of the control.
2.4 Excavation	No	A minimum setback of 1.5m is required from all boundaries for excavation. The proposal is to excavate up to the western (side) boundary, the northern (front) boundary and to within 1m of the southern (rear) boundary.
2.6 Length and depth of buildings	No See 'Issues' below.	<p>The maximum length (across a site) is 24 metres and requires articulate in the massing to respond to the established pattern of buildings along the street.</p> <p>The proposed building is 38 metres in length and has insufficient breaks in the massing, creating a monolithic form.</p>

2.7 Building Separation	No  See 'Issues' below.	<p>The first 4 storeys require separation from adjoining buildings of 12 metres between living areas.</p> <p>The eastern side of the building has living areas within 3 metres of the eastern boundary and unacceptably borrow from the underdeveloped adjoining site to the east. The eastern neighbour is currently a dwelling but is zoned for medium density residential.</p> <p>The western side of the building has living areas within 7.5m of the western boundary. Opposite this, the Oceanview Apartments have a 5m setback, resulting in 12.5m between buildings. This achieves the minimum requirement of 12m.</p>
2.8 Building Design and Streetscape	No	The building does not respond to the streetscape character of the area.
2.10 Vehicular Access and Parking	No	<p>Only 1 x 2-way vehicular access point is allowed per site. The development contains 3 vehicular access points at the rear and 1 at the front.</p> <p>The controls also state that carpark access be provided from lanes where possible, whereas the proposed access is from both frontages.</p>
2.11 Pedestrian Access and Entry	Partial	<p>The proposal has main entrances at street level, with accessible paths from the street to all areas of the development.</p> <p>The entrances do not, however, respond to the existing street and subdivision pattern.</p>
2.12 Landscaping	Partial	<p>The control requires 30% of the site to be landscaping and 15% to be deep soil planting.</p> <p>The proposal provides for 36% landscaping but only 3% deep soil.</p>
2.13 Communal Open Space	No	There is a sufficient area of communal open space (262m <sup>2</sup> ) compared to the control (36m <sup>2</sup> ) which also includes a pool. However it is centrally located within the U-shaped building at level 2 and receives zero sunlight between 9am-3pm in mid-winter, being overshadowed by the proposal itself.



2.14 Private Open Space	No	<p>The control requires balconies to be a minimum 10m<sup>2</sup> in area and 2.5m in width.</p> <p>16 of the 28 units (57%) do not meet with minimum width requirement (being proposed as 2m) and 4 of these contain undersized areas (being proposed as 8m<sup>2</sup>).</p>
2.15 Solar Access and Overshadowing	No See 'Issues' below	<p>82% of the units receive solar access for a minimum 3 hours a day, exceeding the minimum requirement of 70%.</p> <p>The additional height and of this building, combined with the minimal setbacks compared to the controls, creates unacceptable overshadowing impacts upon adjoining properties on all three sides. Various openings that previous enjoyed a minimum of 3 hours of sunlight a day will no longer achieve this minimum standard.</p>
2.16 Views and view sharing	No	<p>There are views over this building to the south/southwest which will be disturbed. Whilst these views are across the site, they result from a significantly higher building than is contemplated by the controls. Specific views have been identified from units with the adjoining property to the west, as well as properties further away in Violet Street and Evans Street. The extent of variation is so significant that impacts on even these views are not reasonable under an assessment of the 'Tenacity Principles'.</p>
2.17 Visual Privacy and Security	No	<p>There are new and numerous openings proposed which introduce privacy impacts upon adjoining properties. Typically these are more than 12 metres apart and this is generally accepted as an appropriate distance in medium density areas.</p> <p>The elevated communal open space and minimal side setbacks exacerbate visual and acoustic privacy impacts to an unacceptable level.</p>
2.18 Apartment Size and Layout	Yes	<p>All units are above the minimum size and the proportion of 10 x 1 bedroom, 14 x 2 bedroom and 4 x 3 bedroom units complies with the unit mix controls.</p>
2.19 Ceiling Heights	Yes	<p>The minimum 2.7m ceiling heights are achieved throughout.</p>

2.20 Storage	Yes	The minimum 212m <sup>3</sup> required is exceeded by providing 343m <sup>3</sup> of storage.
2.21 Attic and Roof Design	No	The uppermost floor does not comply with the size, layout or setback controls.
2.22 Acoustic Privacy	Yes	An acoustic report submitted with the application outlines measures to meet the internal amenity requirements.
2.23 Natural ventilation	Yes	71% of the units are cross-ventilated, exceeding the minimum requirement of 60% .
2.24 Building Services	Yes	There are no building services on the roof, satisfying the control.  Mailboxes have not been shown on the plans as required, but can easily be accommodated.

Waverley DCP 2012 – Part D1 Commercial development – Commercial and Retail Development		
Development Control	Compliance	Comment
1.1 Design	Yes	The proposal generally satisfies the design controls. Details would need to be provided in relation to the internal ventilation shafts to ensure these would not be attached to the outside of the building. This could be dealt with as a condition of consent.
1.2 Noise	Yes	Appropriate conditions of consent could be imposed upon any future tenancies to mitigate noise impacts to an acceptable level.
1.3 Hours Operation	Yes	The RSL has existing hours from 8am to 12 midnight, whereas the proposal is to operate from 7am to 9pm. This is an acceptable outcome.  The retail 3 tenancies would be subject to a separate DA process subsequent to this 'parent' DA for the building.

**Waverley DCP 2012 – Part E3**  
**Site Specific – Local Village Centres**

<b>Desired Future Character Objective</b>	<b>Compliance</b>	<b>Comment</b>
To maintain the built form arising from the historical subdivision pattern and the small shop character at street level	No  See 'Issues' below.	The building has overwhelming horizontality and is removed from the rhythmically vertical small shop character of this centre. This is exacerbated by the single curtain wall of glass at the street level and at the upper floors by the horizontal emphasis of the expressed external metal window 'blades'. These are horizontally aligned but offset vertically at each level compared to the one below.
Maintain the public views and outlook at the eastern end of the centre, as well as outlook over open space at western end of the centre	Yes	The building does not impede public views to the east. The 'outlook over the open space at the western end of the centre' objective is difficult to rationalise. There is no outlook over open space unless this refers to the gaps between buildings. The proposal achieves this (if that is the intent) but would provide greater outlook if the side setbacks were increased.
The Bronte RSL is an important community building and considered to be a key site in the centre	Yes	This is more of a statement than a control. The RSL cannot be secured by development consent or condition as a use in its own right. The current building is used as a 'Registered Club', currently tenanted by the Bronte RSL, but this can change to any type of 'Registered Club' at any moment. Similarly, the proposed development proposes a 'Registered Club' and is not necessarily linked to the 'Bronte RSL' as an entity.
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
3.2.1a Ground floor to be non-residential	Yes	The ground floor is entirely commercial with the exception of the residential lobbies.
3.2.1d Floors above ground and first must be residential	No  See 'Issues' below.	In addition to residential (4 x 2 bedroom units) the first floor contains the club area, including function area, gaming, lounge, bar and back of house. There is also a terrace at the front of the building (inside the boundary).
3.2.1e Parking to be at basement level accessed from side or rear only	No  See 'Issues' below.	Two levels of parking are above ground as viewed from Chesterfield Lane but these are below the Macpherson Street level.  Parking is accessed from the rear for residents, however parking is also proposed via a driveway off Macpherson Street.

3.2.1h	Clearly separate commercial and residential entrances	Yes	The residential lobbies are at either end of the building and are defined by a double height entrance on the western end and a separate external walkway on the eastern end.
3.2.2a	Buildings to street alignment as per building envelop diagrams	No  See 'Issues' below.	<p>The building envelope controls envisage 3 storeys aligned to the street boundary with a 4<sup>th</sup> storey set back beyond. The proposal is for only 2 storeys aligned to the street with the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> floor set back beyond.</p> <p>The envelope controls envisage a courtyard style arrangement with small twin residential 'towers' at the front and rear. The proposal is for a ziggurat form with no internal courtyard.</p>
3.2.2c	Clear entry to residential at ground floor	Yes	This can be achieved.
3.2.2d	Shopfronts to have consistent width and height with historical character of street	No  See 'Issues' below.	<p>The frontage is made up of various opening sizes, presenting in width (approximately) from east to west as:</p> <ul style="list-style-type: none"> <li>• 3m – Residential entry</li> <li>• 7m – Club entry</li> <li>• 17.5m – Retail entry</li> <li>• 3m – Arcade entry</li> <li>• 8m – Retail entry</li> <li>• 3m – Residential entry</li> </ul> <p>In this neighbourhood centre there is a predominant character of single allotment retail openings (say 7m in width) broken by narrow residential entries between. Spacing is consistent and rhythmical, and is vertically expressed in the architecture.</p> <p>To overcome the disparity proposed, the central retail tenancy should become two separate tenancies to allow a more rhythmical 3m-7m-7m-7m-3m-7m arrangement. This would better reflect the historical subdivision pattern in this locality. This also needs to be expressed more vertically in the design of the building at this level.</p>
3.2.2f	Shopfronts to be predominantly glazing	Yes	The shopfronts are entirely glazed, but excessively so. Some masonry elements should be introduced to reflect the subdivision pattern and character of the locality, and break the horizontality of the building's design.
3.2.2g	Residential entries to occupy max 20% of frontage	Yes	The site is 48.48m wide and residential entries occupy less than 6m of this (12%).

3.2.2h No solid facades to primary frontage at ground level	Yes	As above (3.2.2f).
3.2.2i Vehicular entries from primary street frontage not permitted.	No See 'Issues' below.	Parking is proposed for the retail and club from the primary street address.

## ISSUES

### Land Use (Supermarket and club)

(Metropolitan Strategy; LEP- Permitted development, zone objectives; DCP Part E3 – 3.2.1d)

#### Supermarket

The NSW Metropolitan Strategy defines this area as a Neighbourhood Centre, and as having 'one or a small cluster of shops and services. A Neighbourhood Centre does not include a supermarket, which is part of the larger 'Village' classification.

The objectives of the Neighbourhood Centre zoning as defined in the LEP are:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises.*
- *To strengthen the viability of Waverley's existing business centres as places of vitality for investment, employment and cultural activity.*

A supermarket does not satisfy the first two of these objectives.

Council commissioned Hill PDA to provide commentary on economic considerations in this Neighbourhood Centre. That report suggests that:

*Based on the role and function of Macpherson Street Centre it accords with the definition of a Neighbourhood Centre as defined by the draft East Subregional Strategy. The Bronte RSL redevelopment would elevate the role of the centre to one more akin to a 'Village Centre' based on the draft East Subregional Strategy definition. This is by virtue of the extended trade area which the centre would serve if the proposed development was implemented.*

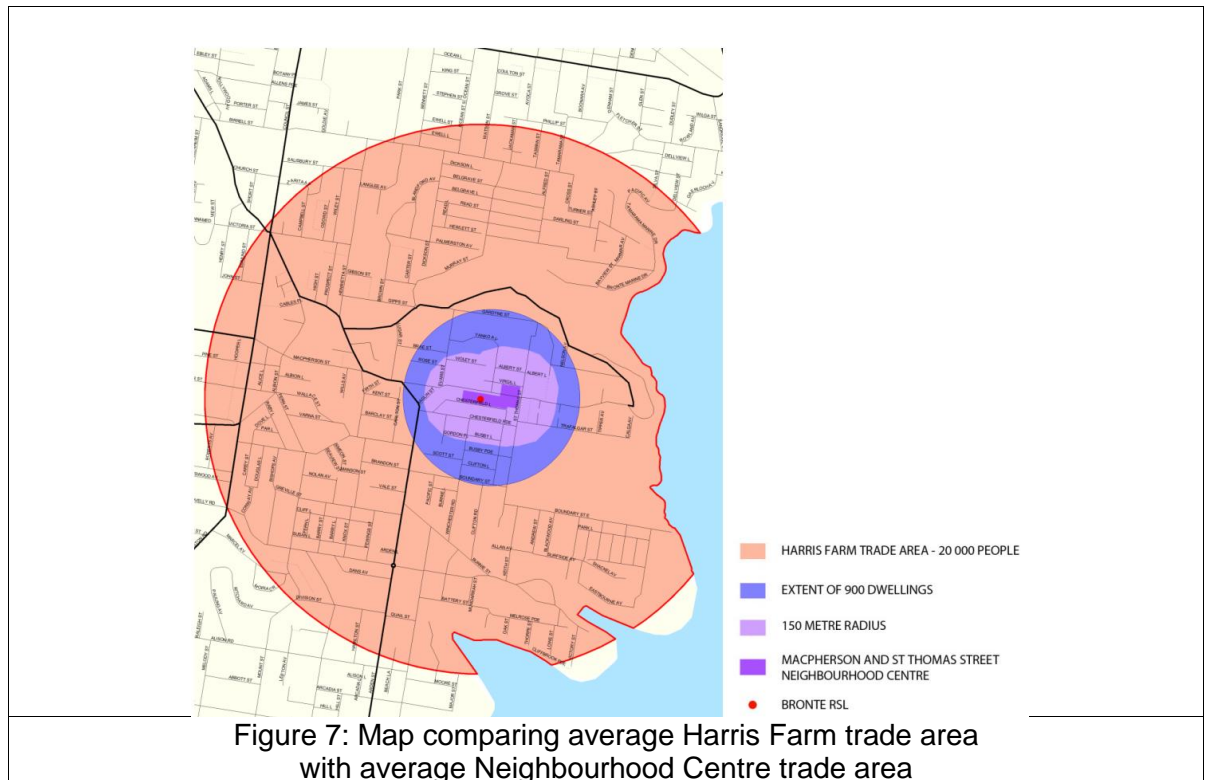
The Hill PDA report generally supports the development from an economic standpoint, suggesting an anchor tenant would vitalise the Centre. This is consistent with the third objective of the zone.

The Subregional Strategy is not intended to prescribe the level of service of a retail Centre nor prevent development. However Council's zoning objectives outline the desired future character of this Centre by encouraging small-scale retail premises.

The closest 'Village Centre' is Charing Cross, less than a kilometre away. It contains many more shops and is served by 9 bus routes. However the subject Neighbourhood Centre is serviced by one bus route and is very unlikely to attract more in the future. Regardless, without a revised retail hierarchy study and provision of better public transport system is not being considered for advancement to a village centre.



A peer review of the applicant's Economic Impact Assessment prepared by Location IQ was undertaken by Urbis. They confirm that there are no economic grounds on which the proposed development should be refused planning consent. It is important to distinguish that the purpose of the objective to have small scale retail is not economically motivated. It is to secure this Centre as a local community retail resource in line with a retail hierarchy that includes other higher order retail areas which service a wider community. The proposal does not achieve this.



From these reports the Council concluded in February 2013 to impose a retail cap on the Centre of 400m<sup>2</sup>. This forms part of the draft LEP amendment No.1. Although in a draft form, this control needs to be considered as the future intent for the Centre as it goes some way to defining what was intended by the zone objective of 'small scale'.

The supermarket is therefore not supported.

### Club

The club is operating under existing use rights as it is not permissible in the zone. The draft LEP amendment No.1 seeks to insert an additional permitted use for this site to allow the Bronte RSL to remain and remove its reliance on existing use rights. It is noted that currently the existing use is as a 'Registered Club' and there is no restriction which mandates it must be tenanted by the Bronte RSL, however the draft LEP specifies the 'Bronte RSL' as a particular use.

In Local Centres the DCP controls require the ground floor to be retail/commercial and the first floor (and subsequent floors) to be residential, however the proposed location of the club is on the first floor. The controls allow consideration of low scale commercial offices at the first floor which meet certain criteria including separation from residential areas within the building. The proposed club is neither a commercial office nor low scale.

The objective of the control is to ensure the ground floor small shop character of the area prevails. The proposal does not achieve this. The first floor club contains gaming areas, function rooms, a bar, and a terrace at the front of the building for almost its full length (over 28 metres).

By comparison to a well known example, the first floor terrace at Ravesi's Hotel Bondi Beach has a length of 17m fronting Campbell Parade (and 35m facing Hall Street).

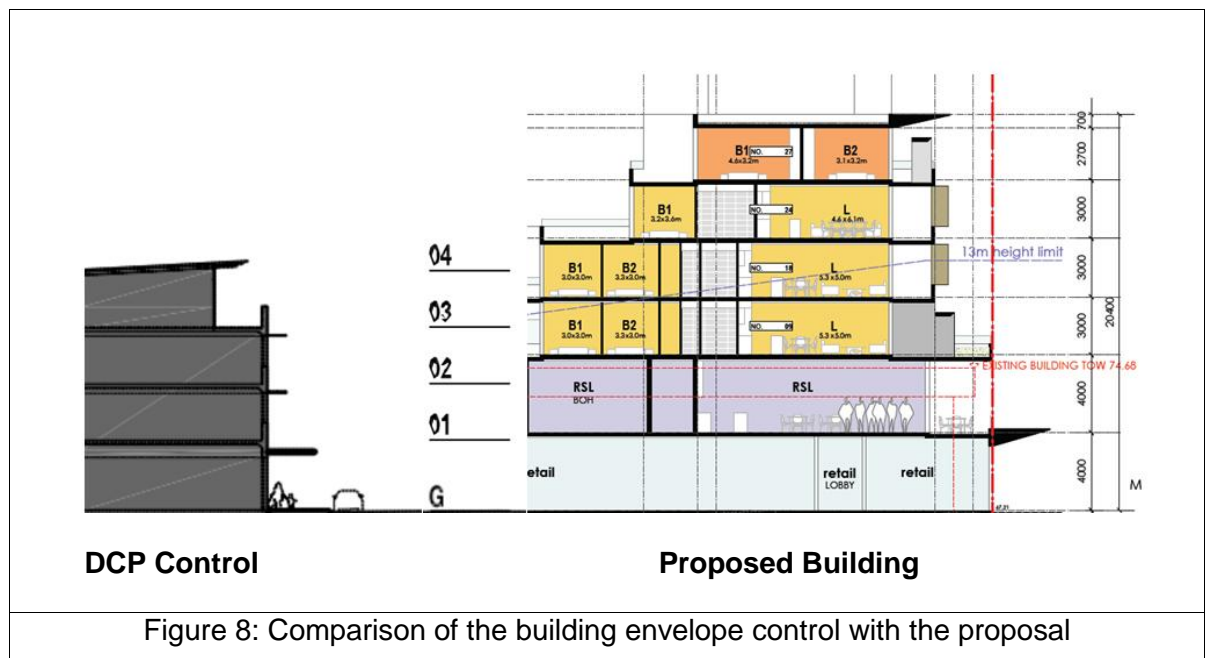
The first floor positioning of the club is not satisfactory and is the by-product of seeking excessive retail space on the ground floor. Had the club been located on the ground floor with residential levels above (and perhaps retail adjacent on the ground floor or below Macpherson Street) there would be inherently a much greater satisfaction of the planning controls.

The club is therefore not supported at the first floor level.

### Bulk and Scale

(SEPP 65; RFDC; LEP cl4.3, 4.4, 4.6; DCP Part C2 – 2.3, 2.6, 2.7; DCP Part E3 – 3.2.2a)

The bulk of the building is at odds with the SEPP 65, exceeds the development standards of the LEP for Height by 100% and FSR by 109%, and is contrary to various DCP controls aimed at minimising bulk and scale. In this context, the LEP and DCP controls suggest a three storey streetwall to Macpherson Street and set back fourth floor as per the image below:



The above model for development may present some opportunities for additional floor space and height given the topography of the site. However it is not reasonable to support the additional floor space sought when the desired urban design approach is ignored.

The building is two floors too high. With those two levels removed the building would still be 1 metre higher than the height control at the front of the site, with the non-compliance increasing as the building extends towards the rear. Nevertheless that would be a more appropriate starting point in terms of acceptability. The adjoining sites to the east have a 9 metre height limit and would therefore contain 3 storey buildings when redeveloped. This means the scale of 4 storeys on the subject site would be reasonable, however 6 storeys is not.

There are material impacts associated with the excessive scale of this development which flow on to all other areas of non-compliance. The variation to the FSR leads to a higher parking rate, which requires two levels of above ground parking, which elevates the building and creates traffic conflict to Macpherson Street and Chesterfield Lane. The variation to height creates

additional overshadowing to the adjoining properties. The lack of building separation creates a sense of enclosure and reduces visual permeability through the site.

The applicant has borne significant weight on the transitional arrangement to the taller 10 storey Oceanview Apartments and a lack of significant additional overshadowing as the catalyst for justifying the additional height and FSR.

Firstly, these assertions are not endorsed as there is certainly additional overshadowing compared to a compliant building and the upward 'transitional height' discussion does not conversely translate to a transition downwards to the lower 2 storey (and or future 9m height potential) on the eastern side of the site. Neither does it recognise that the Oceanview Apartments already have a transitional built form on the eastern side of the property. The 10 storey tower is set back from the side boundary by a wide 3 storey podium building. Introducing the proposed 6 storey building on the RSL site does not 'transition' up to the tower as such, but rather creates an undulating built form that goes (from east to west including neighbours) 2 storeys, 6 storeys, 3 storeys, 10 storeys. The prospect that the proposed building somehow reduces the visual impact of the Oceanview Apartments is not accepted.

Secondly, and more importantly, even if these arguments were accepted and in fact overshadowing and privacy impacts could be demonstrated to be no worse than a compliant building, the building is too big. It appears bulky to the street and overtly high in the wider context of much smaller buildings surrounding the site, with the notable exception next door which is excessively and unreasonably quoted to justify the proposed height.

An exception to vary the development standards is not warranted having regard to the matters prescribed for consideration under clause 4.6. There are insufficient planning grounds to support extent of variation proposed, the proposal is inconsistent with the objectives of the standard and there is sufficient public benefit in maintaining the development standards. The variations do not achieve better outcomes for and from the development.

The bulk and scale of the building is not supported.

### **Traffic/Parking**

*(DCP Part B7; DCP Part C2 – 2.10; DCP Part E3 – 3.2.1e, 3.2.2i)*

The increased intensity of this development compared to the existing Bronte RSL club building will translate to an increase in Traffic. However the Traffic Studies suggest that Macpherson Street as a regional road has the capacity to absorb this increase without significant impacts. The generation of additional traffic in general terms is accepted.

The extent of parking is excessive. The residential rates exceed the controls for the number of units, and this in itself is artificial as the rate is generated from a building containing more than twice the floor area envisaged by the controls. The commercial rates also exceed the controls and are again artificially accentuated.

The floor area in this building is 109% over the controls. The 'parking rate' required by this development is therefore 109% overstated and on top of this a further variation is still being sought. A compliant building would 'require' approximately half the parking currently being quoted as 'required'.

There is significant concern debate on the acceptability of providing loading facilities and residential parking from the rear, as well as the acceptability of retail parking from the front. These have been discussed in great detail in Council's Traffic Reports and Peer Reviews of the applicant's Traffic Reports.

Bronte RSL patrons have previously been able to access the parking at the rear. Accepting for a moment that this could be retained, the residential parking rate for a compliant building with less units would require (approximately) a minimum of 14 spaces and allow a maximum of 18 spaces. This extent of additional residential parking on the site would not result in local amenity issues and could also be accommodated at the rear, particularly if there were a genuine basement level or a single level of carparking only.

Additional parking demand and loading requirements would then still be created by any new retail tenancies. Subject to compliance with the small-scale retail requirements in the LEP, these tenancies would be akin to the small existing shops in this Neighbourhood Centre, all of which do not have on-site parking for customers or loading facilities and who currently park on Macpherson Street.

The subject property is 48 metres across and currently the majority of the kerbside in front of the site is sign-posted as no parking, no stopping or a taxi zone. In fact there is only 1 car parking space in front of the site at its western edge. Reconfiguration of these restrictions should be reconsidered as a viable option for the retail parking and loading demand associated with small scale shops.

This might circumvent the requirement for a secondary crossing from Macpherson Street. This would bring the proposal into compliance with the various controls which only permit one vehicular access point per site and do not allow access from the primary road when there is a laneway.

The size and scale of this development necessitates significant impacts on the pedestrian environment of Macpherson Street and the amenity of Chesterfield Land. A more modest and compliant development should have access only off the lane and the commercial component of the site should be of a scale where it can better rely on kerbside parking on Macpherson Street for loading and customer parking.

### **Design/Character**

*(SEPP 65; DCP Part E3 – Objective 1, 3.2.2d)*

The design of the building has been dictated by the ziggurat form which aims to limit overshadowing and reduce bulk. The design fails to respond to the context of Macpherson Street which is characterised by small lot subdivisions and vertically proportioned buildings. In addition to concerns about bulk and scale, the design of the building exacerbates the horizontality of the structure and emphasises its monolithic form.

Horizontal members are aligned at each level whereas the vertical components appear purposely offset. The ground floor retail is a curtain wall of glass extending the full width of the building. As stated previously, the design objectives are not cognisant of the setting and include the stated aim of maintaining the 'high street' streetscape - a description unrelated to the predominantly residential setting.

The comments of the SEPP 65 Design Review Panel (as previously discussed in Section 2.1) more clearly articulate the extent of issues relating to design and these are not repeated here. The underlying point is that the design requires improvement to satisfy the Principles of the SEPP, to meet the objectives of the LEP and the controls in the DCP.

The design and impact on character is not acceptable.

### **Other**

Various other non-compliances are present and result in unacceptable outcomes. Given the failure of the proposal on the various threshold issues described above, these are not entered

into in greater detail than already described in the tables above. In isolation these outcomes do not by their own right form reasons why this application should be refused. They do, however, demonstrate the excessive nature of the development compared to the controls.

## **2.2 SECTION 79C(1)(B) – OTHER IMPACTS OF THE DEVELOPMENT**

The proposal will have detrimental environmental impacts on the locality, namely the built environment. The non-compliances and impacts of these have been described previously, however the pertinent point is that regardless of all the material impacts from overshadowing, privacy, and separation between buildings, the building is simply too big in this setting.

No social impacts are expected subject to appropriate conditions being imposed if consent were granted.

The proposed development is capable of complying with the BCA, however Council's Fire Safety Officer's preliminary assessment revealed that there were a number of non-compliances with the BCA, including but not limited to, protection of openings internally and externally, access and egress pertaining to escape, construction of exits and access for people with a disability, and inadequate sanitary and other facilities. Their recommendation is to obtain further information via a BCA Compliance Report prior to any further assessment. Given the recommendation for refusal, this has not been pursued.

Council's Health Surveyor is satisfied the building can meet health and safety regulations subject to conditions of consent, a list of which were provided.

## **2.3 SECTION 79C(1)(C) – SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

The site is suitable for redevelopment with a mixed use building with a Club, retail areas and residential accommodation, but not at the scale and intensity proposed.

## **2.4 SECTION 79C(1)(D) – ANY SUBMISSIONS**

The application was advertised for 30 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Approximately\* 425 written objections were received as well as 3 petitions which contained 10, 28 and 2060 signatures each (2098 in total). There were also 4 letters of support.

The issues raised in the submissions are summarised and discussed below. The issues are in order of the number of submissions raised to that issue, i.e. 'Traffic/Parking/Loading' received the most complaints.

\*The number is approximate as many letters were signed by multiple parties (in one case 44 people) and in other cases there were duplicated and/or multiple related submissions from 1 person.

### ***Issue: Traffic/Parking/Loading and noise from trucks***

**Response:** The greatest concern raised in the submissions was the traffic and parking implications associated with the large supermarket and the inadequacy of the loading facilities at the rear. Many objectors spoke of their experience in the rear laneway with larger vehicles causing damage to property and low hanging tree branches and did not accept that large vehicles should be using the laneway for servicing. Traffic Reports commissioned by Council support this assertion.



There was also concern that the area would be parked out by the customers and that valuable kerbside parking would be lost. Traffic generally would be worsened and there would be an increase of truck movements in the area.

The rest of the Macpherson St Neighbourhood Centre is occupied by small scale shops and has associated small scale loading arrangements. The introduction of a large scale supermarket introduces a disruptive element to this setting. Concerns raised about traffic, parking and loading are supported.

***Issue: Safety of Children in surrounding schools***

**Response:** There has been an overwhelming number of submissions raising concerns about the safety of children around this Neighbourhood Centre, particularly from local residents and parents of children at Clovelly Public School, Bronte Day Care Centre and users of the Scout Hall.

A vast number of objections qualified anecdotal concerns stating 'I've been here for 20 years' or 'my child has been going to this school for 5 years' and spoke of their experience about the unsafe nature of the roads near the schools. There appears to be a genuine perception (and a very real concern) that additional large trucks using Chesterfield Avenue and Chesterfield Lane will create serious issues for pedestrians. This topic evoked the most emotive submissions.

Additional large loading vehicles cannot reasonably be accommodated on Chesterfield Street and Lane. The turning circles at either end of Chesterfield Lane are too tight and result in trucks either causing damage to private and public property and/or coming out past the centre lane of Chesterfield Parade when turning.

***Issue: Bulk and Scale***

**Response:** This has been discussed at length in the report. The bulk and scale of building is unacceptable.

***Issue: Non-compliance with the planning controls and removal of certainty in planning***

**Response:** Concerns were raised about the purpose of having planning controls and development standards if this development were approved with the number and nature of variations being proposed. As reported, the extent of variation sought in this DA is beyond reasonable and is more appropriately considered at the Strategic Planning level. This has been done and the conclusions of Council have been to recommend no uplift in height, floor space or number of storeys for this site.

***Issue: Loss of community/serenity, Loss of heritage/character, Design***

**Response:** Objectors are concerned that the small scale neighbourhood setting would be lost because of this development and that the building is not in keeping with the surroundings. By virtue of the building's scale and design, the proposal is more aligned to standardised 'high street' retailing and does not reasonably respond to the character of this locality.

***Issue: No Club other than the Bronte RSL should be allowed***

**Response:** Concerns are raised that the Bronte RSL may later be turned into any other 'Registered Club'. Under the current proposal this is entirely possible, but the 'tenancy' of the club is not a planning consideration, but rather the material impacts are. There is

nothing that can be imposed as part of this DA that mandates the Bronte RSL must be a tenant.

***Issue: Economic Impact on Local Businesses***

**Response:** Concerns are that the larger supermarket will diminish the viability of the smaller scale shops in the neighbourhood centre. There would no doubt be an impact upon retailers in this area but there would also be some benefits. A small grocer may struggle to compete for example, but a café might increase patronage from the increased customer base coming to the centre.

Economic studies commissioned by Council have confirmed that there are insufficient grounds to refuse the application based on economic impacts.

***Issue: Overshadowing***

**Response:** The building creates significantly more overshadowing than a compliant building. This is true of the impact on the eastern and western neighbour as well as those across Chesterfield Lane to the south. The additional impact is not accepted.

***Issue: Noise from communal areas, driveway of Macpherson St and mechanical exhausts***

**Response:** There would be an increase in noise from the new driveway off Macpherson Street experienced by the neighbours in the Oceanview Apartments, and the elevated communal area has the potential to create significant noise impacts. Mechanical Exhaust systems have not been indicated on the plans but would be required to be acoustically treated to acceptable standards. The scale of these impacts would be reduced if the excessive scale of development was also reduced.

***Issue: Disruption from construction***

**Response:** This is an unfortunate but not unacceptable by-product of any development. Standardised conditions of consent are available to minimise impacts.

***Issue: View loss (specifically noted from 7, 12 and 21 Violet St, 13 Evans St and Units 11 and 21 of 109 Macpherson St (Oceanview Apartments))***

**Response:** There has been no site inspection from these properties and only 1 submitted a photo of their current view. There are certainly views across this site which will be affected. Whilst the view loss occurs from oblique or distance angles, the extent of variation to the controls is excessive and may be unreasonable. Given the various other non-compliances in this development, particularly those relating to bulk and scale, the loss of views from this proposal will not be the defining determinative issue, nevertheless the application is recommended for refusal.

## **2.5 SECTION 79C(1)(E) – PUBLIC INTEREST**

The proposal is not in the public interest for the reasons discussed above in relation to significant variations to development standards and controls, and as demonstrated by the extent of objection to the proposal by the public.

## **3. REFERRALS**

Advice from referrals has been extracted into the report where appropriate and included the following divisions of Council:

- Health and Building
- Fire Safety
- Urban Design
- Heritage and Urban Planning
- Land Information
- Technical Services

The Waverley Traffic Committee and the Joint Randwick/Waverley SEPP 65 Design Review Panel also provided advice.

#### **4. SUMMARY**

The proposed development is excessive in scale and provides for numerous non-compliances with development standards and controls. The appropriateness of the controls has also been considered at the strategic level where they were determined to be sound.

To maintain the integrity of the planning controls and to restrict the impacts associated with the proposed development, the application is recommended for refusal.

## 5. RECOMMENDATION TO JOINT REGIONAL PLANNING PANEL

That the Development Application be **REFUSED** by the Joint Regional Planning Panel (JRPP) for the following reasons:

### **Bulk and scale**

1. The proposed development has excessive bulk and scale and does not satisfactorily achieve compliance the following:
  - a. The Principles of State Environmental Planning Policy No.65 –Design Quality of Residential Flat Development, in relation to the building's response to Context, Scale, Built Form and Density, being Principles 1, 2, 3 and 4;
  - b. The Rules of Thumb in the Residential Flat Design Code;
  - c. The Waverley Local Environmental Plan 2012 with respect to the development standard of clause 4.3 – Height, providing a 100% variation to the control;
  - d. The Waverley Local Environmental Plan 2012 with respect to the development standard of clause 4.4 – Floor Space Ratio, providing a 109% variation to the control;
  - e. The Waverley Local Environmental Plan Clause 4.6 in that there is insufficient justification to vary the controls to the extent proposed given the failure to satisfy the objectives of the above controls, the reasonableness and necessity of the controls and the public benefit in maintaining the controls;
  - f. The Waverley Development Control Plan 2012, Part C2 – Residential Development – Multi Unit and Multi Dwelling Housing with respect to:
    - i. the Objectives and Controls at Section 2.3 – Height;
    - ii. the Objectives and Controls at Section 2.6 – Length and Depth of Buildings;
    - iii. the Objectives and Controls at Section 2.7 – Building Design and Streetscape; and
  - g. The Waverley Development Control Plan 2012, Part E3 – Local Village Centres with respect to:
    - i. The Objectives and Controls at Section 3.2.2a pertaining to street setback controls.

### **Traffic/Parking**

2. The proposed development creates unreasonable traffic and parking related impacts upon the adjoining properties and the locality generally and does not satisfactorily achieve compliance the following:
  - a. The Waverley Development Control Plan 2012, Part B7 – General Design Provisions – Transport with respect to excessive parking rates for residential units and commercial uses, including the artificial elevation of the 'required' rates given the floor area is 109% above the controls;

- b. The Waverley Development Control Plan 2012, Part C2 – Residential Development – Multi Unit and Multi Dwelling Housing with respect to the Objectives and Controls at Section 2.10 – Vehicular Access and Parking;
- c. The Waverley Development Control Plan 2012, Part E3 – Local Village Centres with respect to:
  - i. The Objectives and Controls at Section 3.2.1e pertaining to the quality of the pedestrian environment;
  - ii. The Objectives and Controls at Section 3.2.2i which requires there to be no vehicular entries along the primary commercial street frontage; and
- 3. The scale of loading facilities proposed are not appropriate at the rear of the site and generate impacts of safety within and adjacent to Chesterfield Lane and the corresponding intersections.

### **Design/Character**

- 4. The proposed development is not consistent with the character of the locality, has unacceptable streetscape impacts and is inappropriately designed, and does not satisfactorily achieve compliance with the following:
  - a. The Principles of State Environmental Planning Policy No.65 –Design Quality of Residential Flat Development, in relation to the building’s response to Context and Aesthetics, being Principles 1 and 10;
  - b. The Waverley Development Control Plan 2012, Part E3 – Local Village Centres with respect to:
    - i. The Objective at Section 3.1.2 pertaining to the built form arising from the small subdivision pattern and small shop character at street level;
    - ii. The Objectives and Controls at Section 3.2.2d which requires new shopfronts be consistent in width and height with the predominant character of the street; and
  - c. The building lacks vertical proportionality and presents as a monolithic form.

### **Land Use**

- 5. The proposed supermarket is not consistent with the small shop character of the locality, and does not satisfactorily achieve compliance with the following:
  - a. The desired future intent underlying Council’s Planning controls that this Neighbourhood Centre is not forecast to be elevated to a higher order Centre in relation to the Metropolitan Strategy’s draft East Sub-Regional Strategy;
  - b. The Waverley Local Environmental Plan 2012 with respect to the zone objectives in the Land Use Table, particularly:
    - i. Objective 1 – To provide a range of small scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood;
    - ii. Objective 2 – To ensure that non-residential uses do not result in adverse impacts on the amenity of existing and future residential premises; and



- c. The Waverley Development Control Plan 2012, Part E3 – Local Village Centres with respect to:
  - i. The Objectives and Controls at Section 3.1.2d which requires that building floors above ground and first floor are to be designed for permanent residential use only.

### **Public Interest**

- 6. The application is not in the public interest given:
  - a. The extent and number of variations proposed to the development standards in the Waverley Local Environmental Plan 2012 and controls in the Waverley Development Control Plan 2012;
  - b. The lack of public benefit in varying the standard; and
  - c. The issues raised in the significant number of submissions opposing the development.

**Report Prepared by:**



**Lee Kosnetter**  
**Executive Planner**

Date: 9 July 2013

**As reviewed by:**



**Mitchell Reid**  
**Divisional Manager**

Date: 9 July 2013

(Reviewed and agreed on behalf of the  
Development and Building Unit)