



## Report to the Joint Regional Planning Panel

<b>Application number</b>	DA-417/2014
<b>Site address</b>	10-14 Hall Street, Bondi Beach
<b>Proposal</b>	Demolition of existing buildings and construction of a seven storey mixed use (shop top housing) building comprising of two basement levels (18 car parking spaces, 22 bicycle spaces, 5 motor cycle spaces and garbage rooms), one commercial/retail shop, 20 serviced apartments and 21 residential units.
<b>Date of lodgement</b>	5 September 2015
<b>Owner</b>	G.J.D.Property Pty Limited
<b>Applicant</b>	Urbis Pty Ltd
<b>Submissions</b>	Thirty one
<b>Cost of works</b>	\$22,966,900 (DA estimated cost of proposal, including GST) \$20,879,000 (Capital Investment Value)
<b>Issues</b>	SEPP 65 principles, RFDC controls, zoning objectives, bulk and scale (height, FSR and setbacks), heritage conservation, building separation, views and view sharing, overshadowing, waste management, operations of serviced apartments, visual and acoustic impacts and public submissions
<b>Recommendation</b>	That the application be <b>REFUSED</b> .

**Site Map (Figure 1)**



**The consent authority for this development application is the Joint Regional Planning Panel – Sydney East Region (JRPP).**

### **1.1 SITE AND SURROUNDING LOCALITY**

The site comprises of Lot 1 in DP 179465, Lot1 in DP 571865 and Lot 22 in DP 5953, known as 10, 12 and 14 Hall Street, Bondi Beach. The amalgamated sites have an irregular shape with a north frontage to Hall Street, east side boundary with 118 Campbell Parade (Ravesi's Hotel), 112-116 Campbell Parade and 108-110 Campbell Parade, south rear boundary with 2 Jaques Avenue and west side boundaries with 16-18 Hall Street, 2A Jaques Avenue and vehicular access from Jaques Avenue. The subject site has an overall area of 908.6m<sup>2</sup> and the topography is generally flat.

The site is occupied by a two storey mixed use (shop top housing) building, constructed from brick with a pitched tiled roof. The ground floor of the building is occupied by three shops, 'U Turn Recycled Fashion' (10 Hall Street), Pharmacy (12 Hall Street) and Atlas Kiosk (14 Hall Street), with residential uses located on the first floor. Vehicular access to the site is provided from Jaques Avenue, with a single vehicle brick garage located in the south-east corner of the site and informal car parking occurring at the rear of the site.

The subject site is located in the Bondi Beachfront area which consists primarily of Campbell Parade and intersecting streets, immediately adjoining the Ravesi's Hotel on the corner of Campbell Parade and Hall Street. The surrounding land uses are primarily mixed use (shop top housing) developments of varying scales typically 2-5 storeys to Campbell Parade, Gould Street and Hall Street with some shops along Jaques Avenue, with predominantly residential uses to the west of the site along Jaques Avenue, varying in scale and density.



**Figure 2:** Aerial imagery of the subject site and surrounding sites as viewed from the north.



**Photograph 1:** 10, 12 and 14 Hall Street as viewed from Hall Street.



**Photograph 2:** Rear section of the subject site, as viewed from the sites driveway.



**Photograph 3:** Site access from Jaques Avenue frontage.

## 1.2 PROPOSAL

The proposal provides for the demolition of existing buildings at 10, 12 and 14 Hall Street, and construction of a seven storey mixed use (shop top housing) building comprising of two basement levels (18 car parking spaces, 22 bicycle spaces, 5 motor cycle spaces and garbage rooms), one commercial/retail shop, 20 serviced apartments and 21 residential units. The proposal is summarised in further detail below and a photomontage of the proposed development is detailed in Figure 2.

### Mixed Use (shop top housing) development

#### *Basement levels*

- Two basement levels with 18 car parking spaces (4 accessible spaces), 22 bicycle spaces, 5 motor cycle spaces and garbage rooms); and
- Associated access ramps, stairs and lifts.

#### *Ground Floor*

- Retail/commercial space (388m<sup>2</sup>), residential apartment lobby and serviced apartments lobby; and
- One WC, fire stairs and vehicular accesses ramps.

#### *Level 1*

- Four residential apartments fronting Hall Street (1 x one bedroom, 2 x two bedroom and 1 x studio unit); and

- Four serviced apartments occupying the centre and rear of the site (3 x one bedroom and 1 x two bedrooms).

#### *Level 2*

- Four residential apartments fronting Hall Street (1 x one bedroom, 2 x two bedroom and 1 x studio unit); and
- Four serviced apartments occupying the centre and rear of the site (3 x one bedroom and 1 x two bedrooms).

#### *Level 3*

- Four residential apartments fronting Hall Street (1 x one bedroom, 2 x two bedroom and 1 x studio unit);
- Three serviced apartments occupying the centre and rear of the site (3 x one bedroom apartments); and
- Rear courtyard parallel to the southern rear boundary of the site.

#### *Level 4*

- Four residential apartments fronting Hall Street (1 x one bedroom, 2 x two bedroom and 1 x studio unit); and
- Three serviced apartments occupying the centre and rear of the site (3 x one bedroom apartments).

#### *Level 5*

- Three residential apartments fronting Hall Street (2 x one bedroom units and 1 x two bedroom unit); and
- Three serviced apartments occupying the centre and rear of the site (3 x one bedroom apartments).

#### *Level 6*

- Two residential units fronting Hall Street (2 x two bedroom units); and
- Three serviced apartments occupying the centre and rear of the site (3 x one bedroom apartments).

#### *Roof level*

- Large open roof terrace occupying entire roof with perimeter landscaping.

The applicant has advised a willingness to consider the provision of a Planning Agreement, however no details to this effect have been submitted.



**Figure 3:** Photomontage of proposed mixed use development as viewed from Hall Street.

### 1.3 RELEVANT HISTORY

A search of Council records indicate the following relevant property history:

- **DA-664/2003:** Deferred Commencement Consent granted on 4 December 2004 to demolish existing building and construct a five storey boutique hotel with 30 hotel suites on four levels with ground floor retail and hotel uses.
- **DA-664/2003/A:** S96 modification approved on 12 September 2007 to increase the height of the lift overrun and amend deferred commencement condition 8 relating to the roof.

In essence, the development was limited to a height of 15m (including services and plant) with the exception of lift overrun and solar water panels.

This consent has not been activated.

- **Pre Development Application PD-15/2013:** A Pre DA was lodged with Council on 30 October 2013 for the redevelopment of the site that sought the demolition of the existing buildings and construction of a seven storey mixed use development comprising of two levels of basement parking, ground level retail, 14 serviced apartments and 22 residential apartments. The proposal was designed by architectural firm; 'Kannfinch' and the Planning consultancy firm; 'Urbis', being those involved in the subject application. The estimated cost of the development was indicated as being \$12million.

In essence, the proposal submitted was the early development stages of the current application. On 5 December 2013, the applicant requested deferral of the application, indicating that a revised scheme was to be submitted, however no further documentation has been submitted and subsequently no formal pre DA advice nor meeting occurred.

- **DA 417/2014: Subject application**

The subject application was lodged with Council on 5 September 2014. The application was notified, advertised and a site notice erected commencing 25 September 2014. The description of the proposal was incorrect by referring to a six storey building, rather than a seven storey building (documentation submitted with the application described the proposal as a six storey building). Accordingly, renotification occurred, commencing 30 October 2014.

On 31 October 2014, additional information was sought seeking a Registered Quantity Surveyors Detailed Cost Report prepared by a suitably qualified expert given that the CIV is indicated as being the same figure as the DA estimated cost of development (of \$21,181,285), despite each of these values/estimates being defined (and therefore calculated) in a varied manner. This figure also increased substantially from the DA estimated cost indicated on the Pre DA application (PD-15/2013) of \$12million.

Given the delegations for major development of CIV of \$20million or more require determination by the JRPP, it was essential for clarification of this aspect. The amended documentation received on 18 November 2014 advised the adjusted figures to be \$22,966,900 for the DA estimated cost of proposal, including GST and \$20,879,000 (Capital Investment Value). Accordingly, the application is referred to the JRPP for determination.

On 18 December 2014, the JRPP were briefed on the proposal. Council Officers raised a number of concerns to the proposal advising they were unable to support the proposal without substantial redesign. Deferral of the application is not warranted in this instance, given the significant redesign required to enable support of the application. An opportunity to withdraw the application was given to the applicant, who sought the application to progress to determination.

Accordingly, the application is assessed based on the documentation received on 5 September 2014 and 18 December 2014.

## **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**

#### **State Environmental Planning Policy (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. The application has satisfied the provisions of SEPP (BASIX) 2004.

## **SEPP 32 – Urban Consolidation**

The relevant objective of SEPP 32 is to ensure that any redevelopment of urban land for multi-unit housing and related development will result in an increase in the availability of housing within a particular locality or a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs.

The provisions of the SEPP are generally aimed at accommodating additional residential accommodation within urban areas with good infrastructure. The proposed development achieves this objective.

## **State Environmental Planning Policy (SEPP) 55 Remediation of Land**

Clause 7(1) of SEPP 55 requires Council to assess whether the land considered in determining a development application is contaminated. A Preliminary Site Investigation report has been prepared by Douglas Partners which indicates that there are a number of data gaps with regard to site history and the potential for contamination and recommends that a hazardous building material assessment be undertaken prior to demolition of existing buildings. In addition the report recommends a detailed investigation of soil and ground water be undertaken following the demolition of existing building and concrete paving, so that the site is readily accessible for a drill rig.

Overall, the Preliminary Site Investigation report by Douglas Partners is considered to address the relevant provisions of SEPP 55 Remediation of Land upon its recommendations being adhered to. Had the application been supported, these matters could be addressed via a condition of consent.

## **State Environmental Planning Policy (SEPP) No 65 - Design Quality of Residential Flat Development**

The provisions of SEPP 65 are applicable to the proposed mixed use development. In accordance with the provisions of SEPP 65, the application was referred to the Joint Waverley and Randwick SEPP 65 Design Review Panel in October 2014 for comments and recommendations regarding the merits of the proposal. The Joint Waverley and Randwick SEPP 65 Design Review Panel have provided comments and recommendations detailing that the proposal fails to address the provisions of SEPP 65. The full comments and recommendations from the SEPP 65 Design Review Panel are detailed below:

### ***Principle 1: CONTEXT***

*The proposed building, at 26.4 metres, would be considerably higher than the limit height of 15 metres and would be greater than the buildings in its immediate vicinity, however in the broader townscape of Bondi Beach it would not be particularly prominent.*

*As the proposal also exceeds the permissible FSR (by 0.45:1), it is in the first instance incumbent upon the applicant to demonstrate that those parts of the proposal that exceed these density and height standards are not disadvantaging other properties in its vicinity. The visual study prepared does not seem to be representative of the range of outlooks in which the building would be visible (for instance there are insufficient views in Hall Street and from Gould Street and Jaques Avenue). The information provided in the application on the immediately surrounding buildings also does not suffice to demonstrate the effects that the proposed building would have on them.*

*Accordingly the applicant should be requested to provide sufficient information on the location of nearby windows that would lose solar access currently enjoyed, privacy, undesirable shadow or view loss that might be caused by any non-conforming parts of the proposal.*

*The site is located in the vicinity of heritage items and adjacent to the Bondi Beach and Park Landscape Heritage Conservation Area and will be a contributory item. The Panel therefore is not convinced that the proposal is satisfactory in the context.*

**Principle 2: SCALE**

*The Bondi Beachfront and its immediately surrounding streets are characterised by considerable variations in built form and scale. It is the Panel's opinion that in the broader context the scale of the proposed building might not be excessive but, as noted above, it is also unclear whether its local effects would be acceptable.*

*The scale of the facade elements is discussed below.*

**Principle 3: BUILT FORM**

*The Panel has concerns about the following characteristics of the building:*

- The Panel is not convinced about the height and bulk proposed, which is well above the height limit. The rear setbacks seem clumsy, and not adequately considered in relation to adjoining sites and their building stock.*
- The size of the light court between the two parts of the building is, in the opinion of the Panel, too tall and narrow to deliver adequate light or sufficient air to provide cross ventilation. It needs to be increased in size and made more open to reach a reasonable standard of amenity.*
- Both residential entrances from Hall St are mean and long, and the end of the residential corridor at the lift-well is potentially unsafe, as it cannot be seen until it is entered.*
- The lift-wells and fire stairs are using façade locations that could be better utilised to provide natural light and views to habitable rooms. It was suggested that the use of centrally located entrance lobbies to the two sections of the building, scissor stairs and centrally located lift wells should be investigated. Fresh air, daylight and outlook from common areas such as lobbies are encouraged.*
- In the opinion of the Panel, the upper level setback from Hall Street should occur at level 4 as this would align it well with the parapets of the buildings to either side of the proposal. The setback is currently not consistently shown in plan section and perspective, and is insufficient in any case.*
- Service risers, car park exhausts, commercial kitchen exhausts, air intake grilles, air-con units and the like should all be anticipated in the design and expressed on the elevations where visible.*
- To Hall Street, the design of the planter box / balustrade needs to be considered for its bulkiness, blandness and future appearance due to weathering.*

**Principle 4: DENSITY**

*As noted above, the FSR of the proposal exceeds the permissible FSR of 3:1 by 0.45:1. For the additional floor space to be justified, the design should be excellent and there should be no adverse impacts caused by the additional floor space.*

*The Panel notes that the removal of one floor of the building would almost reduce the FSR of the building to compliance level however we would encourage better planning arrangements as a priority.*

**Principle 5: RESOURCE, ENERGY AND WATER EFFICIENCY**

*Reasonable solar protection of windows is proposed, however, as also noted below, the cross ventilation of the residential units would be of dubious quality.*

*As noted above, it is the Panel's view that cross ventilation is generally poor, and it is questioned whether the proposal meets RFDC requirements.*

*Window design should permit them to be left securely open for cross ventilation. Window operation should be indicated on the elevations.*

*Ceiling fans should be provided in habitable rooms and indicated on the drawings.*

*Light and ventilation through clerestory windows to top floor apartments may be able to be incorporated with an adjustment of the roof terrace design.*

**Principle 6: LANDSCAPE**

*The Panel supports the use of the primary roof areas for recreation, as this is unlikely to cause a nuisance to neighbors in this location. It is suggested that a small pavilion would be a useful facility to be provided in association with the BBQ. The roof terraces should be placed away from the light well and from neighbors to reduce acoustic and privacy issues. The use of the small roof terrace on the intermediate level to the rear boundary for recreation is not supported.*

*The use of a green wall treatment on the columns of the upper floors is not described in the landscape report. The Panel questions the viability of this feature as its maintenance, under body corporate management, is likely to be troublesome. Its contribution to the architectural coherence of the building is questionable*

*The establishment of shade tolerant plants that might achieve some size would be very desirable in the two rear areas. The scale of the proposed plantings in these areas is unclear. In the long term one good sized tree will create better amenity and outlook for the serviced apartments and for the neighbouring buildings. Exhaust risers in this area should be reconsidered.*

*There is currently insufficient coordination between the architectural and landscape drawings. The landscape design needs further design consideration to meet RFDC requirements.*

**Principle 7: AMENITY**

*It is unclear from the diagrams provided how, as claimed, that 100 percent of 2 hours of midwinter sun is being achieved, nor is it clear (given the size and depth of the light court) how cross ventilation of the north facing units is to be achieved.*

*The common areas are generally substandard throughout, and need to be improved in line with the recommendations in this report.*

*The nature of the spaces both on the site and adjoining sites needs to be made clear as it appears from the aerial photo that the serviced apartments are overlooking service areas and*

*the garbage bin area off the adjoining property, with minimal opportunities for these to be concealed.*

**Principle 8: SAFETY AND SECURITY**

*As noted above, the Panel expressed some concern about the concealed dead-end configuration of the entrance lobby (corridor?) to the residential apartments.*

*A BCA report and fire separation compliance details should be prepared, and the recommendations included in the DA drawings.*

**Principle 9: SOCIAL DIMENSIONS AND HOUSING AFFORDABILITY**

*This is a good, well-serviced location for the mix of accommodation proposed.*

**Principle 10: AESTHETICS**

*If well detailed and properly documented, the proposed building has the potential to be realised as a handsome addition to this popular location.*

*In line with the RFDC, the applicant should provide 1:50 scale detail drawings (sections and part elevations) that describe the construction of the facades. All the materials need to be noted on the elevations. As noted above the Panel does not consider that the “green wall” treatment of the upper levels columns is desirable or practical.*

**SUMMARY AND RECOMMENDATIONS**

*This is a major application for a prominent site, and significant non-compliances are proposed. The Panel considers that a number of changes are needed to the design of this building and that further contextual information and impact assessment need to be provided. The architectural and landscape drawings need to be coordinated and further refined.*

*The Panel looks forward to reviewing the design after the suggestions made in this report have been considered in conjunction with the officers of Council.*

The comments and recommendations provided by the Joint Waverley and Randwick SEPP 65 Design Review Panel indicate that the proposed development has failed to adequately address the provisions of SEPP 65. The Panel is particularly concerned by the significant non-compliances with the height and FSR development standards, resulting in an unacceptable building form, bulk and scale that is out of context within the locality and fails to incorporate aesthetic qualities which will reinforce the visual prominence of the site. The Panel has questioned the aesthetic qualities and architectural cohesion of the proposed green wall/columns to the Hall Street elevation, indicating that realisation and viability of such a visually prominent design element will be problematic, necessitating ongoing maintenance and costs for the life of the building.

The SEPP 65 Design Review Panel also raised concerns regarding the internal planning and layout of the building, specifically the location of common circulation areas (stairs, lifts and lobbies), and the layout/orientation of individual units and serviced apartments. The Panel is not convinced that adequate internal amenity (solar access, natural ventilation and privacy) will be achieved for individual units and serviced apartments. In addition, the Panel is not supportive of the building form, bulk and scale, and privacy impacts from the orientation and layout of units and serviced apartments, which are likely to compromise the amenity (solar access and privacy) of surrounding buildings.

The Panel has also identified inconsistencies between DA documentation (architectural and landscape plans) and information inadequacies which prevent the Panel from determining the full extent of the impacts (solar access, bulk and scale, visual and acoustic privacy) on surrounding buildings, open space and the public domain. For example the architectural roof plan fails to incorporate details of the roof terrace and associated facilities (awning shade structure, change in floor levels, BBQ area, etc). Furthermore the photomontage appears to inaccurately depict the level of awning in relation to the adjoining building to the east when compared to the architectural elevations. The winter shadow analyses (DA-25 –REV) are incomplete, failing to depict the full extent of shadow impacts on surrounding building and the public domain.

The proposed development fails to adequately address the following provisions of SEPP No 65 - Design Quality of Residential Flat Development:

- Clause 2 Aim, objective etc, subclauses (3)(a)(ii) and (iii), (b) and (d) as the proposed development fails to achieve the objectives of urban planning policies of the local context, fails to provide an appropriate built form and aesthetic qualities to positively contribute to the streetscape, and fails to maximise the amenity, safety and security for future occupants and the wider community.
- The proposed development is contrary to Part 2 Design quality principles, in particular Principles 1 Context, 2 Scale, 3 Built Form, 6 Landscape, 7 Amenity and 10 Aesthetics.

Accordingly, the proposed development is not supported and is recommended for refusal.

#### **Draft State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development (Amendment No 3)**

The draft SEPP 65 Design Quality of Residential Flat Development (Amendment No 3) has been publicly exhibited and has been considered with regards to the proposed development. The proposed development is contrary to numerous provisions of the draft SEPP and the application is not supported.

#### **Waverley Local Environmental Plan (WLEP) 2012**

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

<b>Waverley LEP 2012 – Compliance Table</b>		
<b>Development Control</b>	<b>Compliance</b>	<b>Comment</b>
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	<b>No</b>	The proposal development fails to adequately clause 1.2 Aims of plan (2)(g) as the proposal fails to preserve the environmental, natural and built heritage of Waverley.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table B4 Mixed Use	<b>No</b>	The proposed shop top housing development is permissible in the B4 Mixed Use zone. The proposal is considered contrary to zone B4 Mixed Use objectives as the proposal fails to integrate suitable development in the zone and

		location. Accordingly, the proposal is not supported with regards to the objectives of the zone B4 Mixed Use and is recommended for refusal. Refer to 'Issues' section of this report for detailed discussion.
<b>Part 4 Principle development standards</b>		
4.3 Height of Buildings: 15m	<b>No</b>	The proposed building has a non-compliant maximum height of 26.4 metres (exceedance is 11.4m or 76% above control). Refer to 'Issues' section of this report for detailed discussion.
4.4 Floor space ratio: 3:1 (2725.8m <sup>2</sup> ).	<b>No</b>	The proposal seeks a FSR of 3.61:1 (3288.64m <sup>2</sup> ) representing 562.84m <sup>2</sup> or 20% exceedance. Refer to 'Issues' section of this report for detailed discussion.
4.6 Exceptions to development standards	<b>No</b>	An Exception to a Development Standard in relation to the height and FSR has been received. Refer to 'Issues' section of this report for detailed discussion.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	<b>No</b>	The subject site is located in the vicinity of heritage items and a heritage conservation area identified in Schedule 5: Environmental Heritage of the WLEP 2012. Accordingly the provisions of clause 5.10 are applicable to the proposed development. Refer to 'Issues' section of this report for detailed discussion.
<b>Part 6 Additional local provisions</b>		
6.1 Acid sulphate soils	Yes	<p>Clause 6.1 Acid sulphate soils require the consideration and assessment of the sites exposure to acid sulphate soils.</p> <p>The subject site is identified as class 5 and potentially within 500m proximity to acid sulphate soils. The preliminary site investigation report prepared by Douglas Partners has addressed the issue of acid sulphate soils and is considered to address the provisions of clause 6.1 in the WLEP 2012.</p>
6.2 Earthworks	Yes	<p>The objective of clause 6.2 is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>The proposal provides for earthworks associated to the basement levels. The application is accompanied by a geotechnical investigation report, accordingly, the application is considered to address the provisions of clause 6.2 Earthworks.</p>

6.3 Flood planning	<b>No</b>	<p>Clause 6.3 Flood planning applies to all land identified as “flood planning area”. The subject site is identified as being within a flood planning area in the flood planning map, and accordingly the provision of clause 6.3 is applicable to the application.</p> <p>The proposed development has failed to incorporate design elements to address the impacts from the flood planning area. The proposal is unacceptable with regards to clause 6.3 Flood planning in the WLEP 2012.</p>
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### Waverley Development Control Plan (WDCP) 2012

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

Part B - General design provisions		
Development Control	Compliance	Comment
1. Waste	<b>No</b>	<p>The proposed waste storage area for the development is to be located in B1 level and requires waste being transported to the collection point on Jaques Avenue. Due to the narrowness of the site's frontage to Jaques Avenue, the garbage bins are proposed to be stored on the verge at the front of adjoining properties while they await collection, considered unreasonable, specifically given the number of garbage bins the proposed development will generate.</p> <p>As such, the proposal development is considered contrary to Part B1 Waste clause 1.2 Ongoing management objectives (d) as the proposal fails to minimise amenity impacts on the surrounding area (Jaques Avenue) during the collection of waste and recyclables. Refer to 'Referrals' section of this report for detailed discussion.</p>
2. Energy and water conservation	Yes	The application is accompanied by a BASIX certificate and is capable of achieving compliance with all relevant energy and water conservation targets in Part B2.

6.Stormwater Management and Flooding	No	<p>The application is accompanied by a Stormwater Management Plan and the application was internally referred to Council's Creating Waverley Sub Program for comment.</p> <p>The advice received indicates the proposal fails to address Part B6 of the DCP objectives and controls, and inadequate information has been submitted to determine the appropriateness of the stormwater facilities including flood mitigation measures given the site's location within a flood area. Refer to 'Referrals' section of this report for detailed discussion.</p>
7. Accessibility and adaptability	Yes	<p>The proposed shop top housing development has incorporated accessibility and adaptability facilities including accessible car space, access ramps, lifts, an accessible serviced apartment and adaptable accessible unit. Standard conditions ensure compliance in this respect (specifically as two adaptable units are required, not one as proposed), had the application been supported.</p>
8. Transport: Parking Zone A <u>Car parking</u> Retail: Min. 0 and Max. 4 spaces Residential: Min. 0 and Max. 14 spaces and 7 visitor spaces <u>Motorcycle</u> 4 spaces required <u>Bicycle storage</u> Retail: 2 spaces Residential: 22 spaces	Yes (on merit)	<p>The proposal provides the following onsite parking and bike storage:</p> <p>Car parking: 18 spaces (4 accessible spaces)  Motorcycle: 5 spaces  Bicycle storage: 22 bike spaces</p> <p>The proposed development generally complies with the minimum and maximum car and motorcycle parking and having regard to the close proximity of the site to public transport. However, the proposal falls short on bicycle parking, whereby a condition of consent would ensure compliance in this respect had the application been supported.</p>

Part C2 Multi Unit and Multi Dwelling Housing		
Development Control	Compliance	Comment
2.2 Site, Scale and Frontage	No	<p>The proposed development provides a non-compliant FSR of 3.61:1 (maximum allowable is 3:1).</p> <p>The proposed development is contrary to clause 2.2 objectives (a) and (c), as the lot size is inadequate to accommodate the non-compliant FSR resulting in an inappropriate building form when viewed from the streetscape. The proposal is also contrary to clause 2.2 controls (a), (b)(i), (ii), (iii), (iv) and (v) as the applicant has failed to justify the FSR non-compliance which is considered to result in an unacceptable building bulk and scale when viewed from the streetscape, private domain of adjoining properties and results in unreasonable amenity impacts on surrounding properties and the public domain. The proposed development is contrary to the provisions of clause 2.2 and is recommended for refusal.</p>
2.3 Height: 15m	No	<p>The proposed shop top housing development has a non-compliant maximum height of 26.4 metres (maximum allowable is 15m).</p> <p>The proposed development is contrary to clause 2.3 objectives (a) and (c) as the development has failed to respond to the desired scale and character of the street and local area, and fails to provide quality residential amenity for apartments. The proposal is contrary to clause 2.3 controls (a), (b), (c)(i), (ii), (iii), (iv) and (v) resulting in an unacceptable building height which will compromise the amenity of surrounding properties and the public domain, and fails to achieve high design quality. The proposal is not supported having regard to the objectives and controls in clause 2.2 and is recommended for refusal.</p>
2.4 Excavation	Yes (on merit)	<p>The proposed excavation and basement levels do not unreasonably raise existing ground levels and the proposal is accompanied by a geo-technical engineers report.</p>

2.5 Setbacks	<b>No</b>	<p>Clauses 2.5 Setbacks, 2.5.1 Street setbacks and 2.5.2 Side and Rear Setbacks in Part C2 of the WDCP 2012 detail objectives and controls for building setbacks for multi unit and multi dwelling housing developments in residential zones.</p> <p>The proposal development is contrary to clause 2.5.2 side and rear setbacks objectives (b) and (e) as the setbacks fail to maximise building separation, resulting in visual and acoustic privacy impacts on surrounding buildings. The proposed setbacks fail to contribute positively to the buildings presence in the streetscape. Accordingly the proposal is not supported with regards to clause 2.5 Setbacks in Part C2 of the WDCP 2012 and is recommended for refusal.</p>
2.7 Building Separation	<b>No</b>	<p>Clause 2.7 Building separation of Part C2 in the WDCP 2012 details objectives and controls to achieve appropriate building separation to reduce potential amenity problems for future occupants of the building and neighbouring allotments.</p> <p>The proposed development is contrary to clause 2.7 objectives (a) and (b) as the building will not provide adequate visual and acoustic privacy for residents and fails to ensure the development maintains the desired character of the area by incorporating appropriate massing and spaces between buildings. The proposal is contrary to the clause 2.7 controls (a) as the minimum building separation requirements in Table 3 of this clause are not achieved.</p>
2.8 Building Design and Streetscape	<b>No</b>	<p>The proposed building fails to address the provisions of clause 2.8 in particular objectives (a), (b) and (c), and controls (a) and (c). The proposed building design has failed to incorporate a scale and appearance which complements and contributes to the streetscape, while the materials and finishes of the building fail to demonstrate a high degree of architectural merit that assist to contribute to and enhance the overall appearance of the building.</p>

<p>2.10 Vehicular Access and Parking</p> <ul style="list-style-type: none"> <li>• Integrated into the design</li> <li>• Secondary to pedestrian entrance</li> <li>• Max of 1 x 2-way driveways</li> <li>• From rear or side where possible</li> <li>• Pedestrian safety</li> </ul>	Yes	<p>The proposal is generally supported with regards to clause 2.10 vehicular access and parking in Part C2 of the WDCP 2012.</p> <p>Vehicular access is proposed from Jaques Avenue via the narrow access handle of the site that relies on a traffic control system to ensure one vehicle at a time.</p> <p>The application was referred to Council's Creating Waverley Sub Program and the Traffic Committee for comment, who support the application subject to specific conditions being imposed. Refer to 'Referrals' section of this report for detailed discussion.</p>
<p>2.11 Pedestrian Access and Entry</p> <ul style="list-style-type: none"> <li>• Entry at street level</li> <li>• Accessible entry</li> <li>• Legible, safe, well-lit</li> </ul>	No	<p>Two separate entries are proposed from Hall Street, one for the residential units and a separate entry for the serviced apartments.</p> <p>The proposal is contrary to clause 2.11 objectives (a), (b) and (c), and control (f). The pedestrian entries are each long, narrow and enclosed. The entries have failed to create a desirable residential identity for future users of the building and fail to create a strong connection with the street and the public domain.</p>
<p>2.13 Communal Open Space</p>	Yes	<p>The proposal provides for a communal roof terrace to the rear at level 3 and roof terraces to the rooftop at level 7. The rooftop provides for access via two sets of stairs and two lifts, giving the impression that one space is for the residential units while the second for the serviced apartments usage, though no details have been provided.</p> <p>Overall, these communal open space areas are located on parts of the building that will impact on acoustic and visual privacy of adjoining properties. Furthermore, there are discrepancies in the detail between the landscape plan and architectural plan to fully appreciate what is proposed there.</p> <p>Accordingly, while the proposal does provide large communal open spaces areas, their size and locations are considered to adversely impact adjoining properties in their current state.</p>

<p>2.14 Private Open Space</p> <ul style="list-style-type: none"> <li>• Min 75% of dwellings to have private open space</li> <li>• Must be off living area</li> <li>• Courtyards – Min 25m<sup>2</sup> and 3m x 3m</li> <li>Balconies – Min 10m<sup>2</sup> and 2.5m depth</li> </ul>	<p><b>No</b></p>	<p>The proposed private open space to residential units and serviced apartment is deficient with respect to the following provisions of clauses 2.14 and 2.14.2:</p> <ul style="list-style-type: none"> <li>• Clause 2.14 objectives (b) and (e); and</li> <li>• Clause 2.14.2 (e) and (f).</li> </ul> <p>A number of private open spaces (balconies) to the residential units fail to incorporate the minimum dimensions for balconies, resulting in unreasonable amenity for future occupants of the building. The proposed orientation of balconies to the serviced apartments is considered likely to unreasonably impact the visual and acoustic privacy of the adjacent buildings to the west (primarily 16-18 Hall Street and 2 Jaques Avenue).</p>
<p>2.15 Solar Access and Overshadowing:</p> <ul style="list-style-type: none"> <li>• Min 3 hours of sunlight to Min 70% of units</li> <li>• Adjoining properties to retain Min 3 hours of sunlight</li> </ul>	<p><b>No</b></p>	<p>The solar access to residential units within the building is inequitable and contrary to clause 2.15 objective (a). The provision of solar access is diminished by the positioning of units within the building floor plate, location of common circulation areas and services (such as lifts, hallways and garbage rooms/chutes). A number of the units on each level are narrow and deep, and in some cases single orientation, which further reduces solar access.</p> <p>The overshadowing impacts on surrounding allotments are contrary to clauses 2.15 objectives and controls (c) and (d) with the majority of unreasonable overshadowing generated primarily by the non-compliant height, floor space ratio and unacceptable building form. The shadow analysis diagrams appear to be incomplete failing to demonstrate the full extent of overshadowing on adjacent buildings, allotments and no elevation shadow diagrams of adjacent building have been submitted.</p>

<p>2.16 Views and View Sharing</p> <ul style="list-style-type: none"> <li>Minimise view loss</li> </ul>	<p><b>No</b></p>	<p>During public notification a number of properties (primarily west) of the site identified that the proposed development will obstruct existing private domain significant views.</p> <p>The proposed development has failed to address the provisions of clause 2.16 in particular objective (a) and controls (a), (b), (f) and (h). No view analysis has been submitted.</p> <p>Given the proposed significant breaches of the maximum height and FSR development standards, and unacceptable building form, impacts on private domain views are unreasonable. Furthermore the consideration of the NSW Land and Environment Court Planning Principle for view sharing indicates that view impacts primarily of the Bondi Beach and ocean will be affected, primarily as direct result of the non compliant height and FSR. Accordingly, the proposal will adversely impact on views and not supported.</p>
<p>2.17 Visual Privacy and Security</p> <ul style="list-style-type: none"> <li>Minimise overlooking</li> </ul>	<p><b>No</b></p>	<p>The proposal is contrary to clause 2.17 objectives (a) and (b), and controls (d), (f) and (g), as the orientation of the private open spaces to the serviced apartments will unreasonably impact on the visual and acoustic privacy of existing residential units to 16-18 Hall Street and 2 Jaques Avenue.</p> <p>In addition the proposal is considered deficient with respect to the planning principle: protection of visual privacy, as inadequate separation and poor design will undermine the visual privacy of neighbouring residential uses. Further, the proposed level 3 and roof top terraces are contrary to clause 2.17 providing large expanses of the roof which will utilised for frequent use and undermining the visual and acoustic privacy of neighbouring residential uses.</p>

<p>2.18 Apartment Size and Layout</p> <ul style="list-style-type: none"> <li>• Single aspect – depth limited to 8m from a window</li> <li>• The back of a kitchen should be no more than 8m from a window</li> <li>• Width of an apartment over 15m deep to be more than 4m wide.</li> <li>• Should provide mix of 1,2,3 bed units</li> </ul> <p>Minimum Size</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 Bedroom: 50m<sup>2</sup></li> <li>• 2 Bedroom: 80m<sup>2</sup></li> <li>• 3 Bedroom: 100m<sup>2</sup></li> </ul>	<b>No</b>	<p>The proposed apartment size and layout is contrary to clause 2.18 objectives (b), (c) and (d), and controls (d) and (e). The apartment sizes and layouts fail to satisfy occupant needs, do not provide for a high level of internal amenity and fail to encourage adaptive re-use by design. Furthermore a number of the units fail to address the numeric controls for minimum size units. Accordingly, the unit size and layout fails to comply with the objectives and controls in clause 2.18 apartment size in the WDCP 2012.</p>
<p>2.19 Ceiling Heights Residential: 2.7m min</p>	<b>Yes</b>	<p>Levels 2 and above comply. Note, Part E2 - Bondi Beachfront Area controls require commercial on ground and first floor levels and subsequently the minimum ceiling heights for ground and Level 1 do not comply with those controls.</p>
<p>2.20 Storage Minimum Size</p> <p>Minimum Size</p> <ul style="list-style-type: none"> <li>• Studio: 6m<sup>3</sup></li> <li>• 1 Bedroom: 6m<sup>3</sup></li> <li>• 2 Bedroom: 8m<sup>3</sup></li> <li>• 3 Bedroom: 10m<sup>3</sup></li> </ul>	<b>No</b>	<p>While the individual units provide some internal storage, it is appropriate to provide storage areas in addition to kitchen cupboards and wardrobes to meet the DCP requirements (eg in basement). In the event the proposal is supported, a condition is recommended to ensure compliance in this respect. In this regard, it is noted there are various areas in the basement that are unlabelled (though show door access) that could provide additional storage in an attempt to comply with the control.</p>

2.22 Acoustic Privacy: Internal amenity by locating noisy areas away from quiet areas	<b>No</b>	The proposal is contrary to clause 2.22 objective (a) and controls (a) and (b), as the proposal fails to ensure a high level of amenity for residents by protecting privacy for individual units. The unit layout and orientation fails to prevent unreasonable acoustic privacy impacts, by locating private open spaces adjacent to residential bedroom windows and providing inadequate separation between the residential uses. The south facing bedroom windows to residential units will be compromised by the location of private open space to the serviced apartments to the east. The communal roof terraces on level 3 and the rooftop also have the potential to adversely impact on acoustic privacy to adjoining properties due to their size and location.
2.23 Natural Ventilation: • Min 60% of units cross-ventilated	<b>No</b>	<p>The natural ventilation of residential units within the building is contrary to clause 2.23 objectives (a), (b) and (c), and controls (b), (c) and (d). As the natural ventilation of residential units will be compromised by the unacceptable layout and orientation of units within the floor plate which compromises individual units capacity naturally ventilated.</p> <p>In addition, the SEPP 65 Design Review Panel has questioned the natural ventilation of individual units, asserting that central light court and south facing windows are likely to provide poor ventilation for units and operable windows will be impacted by the fire engineering requirements.</p>

Part D - Commercial Development		
Development Control	Compliance	Comment
Part D1 – Commercial and Retail Development	<b>No</b>	While it is appreciated that the proposed use of the ground floor retail/commercial space is unknown, the proposed building is contrary to clause 1.1.3 (a) and (e) as the provision of ducting and ventilation shafts are not identified on the relevant plans. Retrofitting ducting and ventilation shafts to the ground floor of the mixed use developments is problematic often resulting in avoidable amenity impacts on above levels within the complex and also surrounding residential uses. A condition for future provision of such services would be recommended in the event the proposal is supported.
Part D2 – Advertising and Signage	No details	The proposed shop top housing development does not include details regarding advertising or signage, accordingly, it is unknown if the proposal addresses the objectives and controls in Part D2 of the WDCP 2012.

Part E - Site Specific		
Development Control	Compliance	Comment
<b>Part E2 – Bondi Beachfront Area</b>		
<b>2.1 General Controls</b>		
2.1.1 Public Domain Interface	<b>No</b>	The proposal is contrary to clause 2.1.1 objective (f) and controls (d) as the large ground floor retail/commercial space fails to maintain the small shop characteristics that are consistent with other shop fronts in the Bondi Beach Precinct.
2.1.2 Building Use	Yes	The proposal development is considered to address the objectives and controls in clause 2.1.2 on merit, accordingly the proposed building use is reasonable.
2.1.3 Built Form	<b>No</b>	<p>The built form of the proposal is contrary clause 2.1.3 objectives (a), (b), (d), (e) and (f), as the building is unsympathetic to the scale and height of existing buildings, fails to incorporate vertical proportions, negatively impacts on solar access to the public domain, fails to provide a high quality internal environment for occupants and does not maintain the scale and alignment of the existing predominant street wall.</p> <p>Furthermore the proposal is contrary to clause 2.1.3 controls (a), (b) and (g) as the proposal fails to incorporate the height and scale of the prevailing built form with the Bondi Beachfront Area. The proposed development will detract from an adjoining heritage item and adjacent heritage conservation area.</p>
2.1.4 Roofs	<b>No</b>	The proposal is contrary to clause 2.1.4 objective (a) and (b), and controls (a) as the proposed building has a number of roof mounted services which will dominate the roof scapes when viewed from surrounding areas including Bondi Park/Beach and Campbell Parade.
2.1.5 Views	<b>No</b>	The proposal inadequately addresses clause 2.1.5 objectives (b) and (c), and control (b) resulting in unreasonable view loss for existing developments and fails to promote the concept of view sharing.
2.1.6 Heritage Conservation	<b>No</b>	The proposal is contrary to the provisions of clause 2.1.6 objective (a) and control (e) as the proposal has failed to demonstrate cohesion with the existing historical character and fabric of the adjoining heritage item and adjacent heritage conservation areas.
2.1.7 Infill Buildings	<b>No</b>	The proposal is contrary to the provisions of clause 2.1.7 objectives (a) and (b), and controls (c) and (d) as the proposed building fails to be sympathetic in scale, alignment, detailing and materials to the adjoining heritage item, and the proposal building fails to build to the prevailing street wall height.

2.2 Character Areas		
2.2.3 Campbell Parade Centre	No	<p>The proposed development is contrary to the following objectives and controls detailed in clause 2.2.3 Campbell Parade Centre:</p> <ul style="list-style-type: none"> <li>Desired future character objectives (d) and (e) as the proposal is inconsistent with the existing character of the area and impacts on heritage items and conservation areas.</li> <li>Control (b) Height and Bulk (i) and (ii) as the proposed development breaches the maximum storey and wall height controls.</li> <li>Controls (h) Roofs and Parapets (i), (iii) and (iv) as the proposal fails to incorporate a rendered masonry parapet and the roof line, lift overruns and plant rooms have not been designed into the overall architectural form of the building.</li> </ul> <p>The proposed development is not supported with respect to the objectives and controls in clause 2.2.3 in Part E2 of the WDCP 2012. Accordingly the application is recommended for refusal.</p>

Part F – Development Specific		
Development Control	Compliance	Comment
Part F2 Tourist Accommodation		
2.2 Hotels, Motels and Serviced Accommodation	No	<p>The proposed serviced apartments within the mixed use (shop top housing) development fail to address clause 2.2 objective (a) and controls (d) and (j). The proposed orientation of private open spaces off individual apartments is likely to negatively impact on the amenity of surrounding residential uses. The proposed service apartment component of the building has failed to incorporate a ground floor lobby for check in and check out and details to the management of this component of the development have not been provided.</p>

## ISSUES

### Height

The proposed building has a non-compliant maximum height of 26.4 metres, which breaches the maximum building height control of 15 metres by 11.4 metres or 76%. The application is accompanied by a clause 4.6 Exception to a development standard and the summary of the applicant's justification for the height noncompliance is detailed below:

*“A variation to the strict application of the Height of Building development standard is considered appropriate for the subject site at 10-14 Hall Street as:*

- *The objectives of the WLEP 2012 Height of Building control are achieved notwithstanding the technical non-compliance.*
- *The objectives of the WLEP 2012 B4 Mixed Use Zone are achieved notwithstanding the technical non-compliance.*
- *There are sufficient environmental planning grounds to support the proposed variation.*
- *The applicant proposes to enter into a VPA with Council to be negotiated post lodgement, with the intent to provide significant public benefits to the surrounding streetscape.*
- *The design of the proposal overcomes anticipated impacts.*
- *The public benefit of maintaining the development standard is not eroded by the proposal.*
- *Strict compliance with the stand is unreasonable and unnecessary in this case, because through Council's VPA policy, the proposed height can be accommodated through encouraged variations to the FSR control in Bondi, given sufficient planning justification is provided. This Clause 4.6 request demonstrates there are sufficient environmental planning grounds."*

The clause 4.6 height justifications assert that the proposed building height will not have negative amenity impacts on adjacent residential properties, particularly areas of private open space and no unreasonable overshadowing will occur.

The applicant justifies the height non-compliance by drawing on the context of the site, and other developments in the Bondi Basin (not directly adjoining) particularly the Swiss Grand Hotel and Bondi Motel (known as 'The Bondi') which are higher than 15m.

The 15m height limit establishes the existing and desired future character of the area to preserve the environmental amenity of neighbouring properties. This height limit has been consistently applied through a number of development applications determined in recent years within the vicinity of the subject site. The exceptions to this height limit include some heritage listed inter war buildings which have a frontage to Campbell Parade and buildings that have recently undergone alterations and additions to existing buildings (ie the Swiss Grand and Bondi Motel).

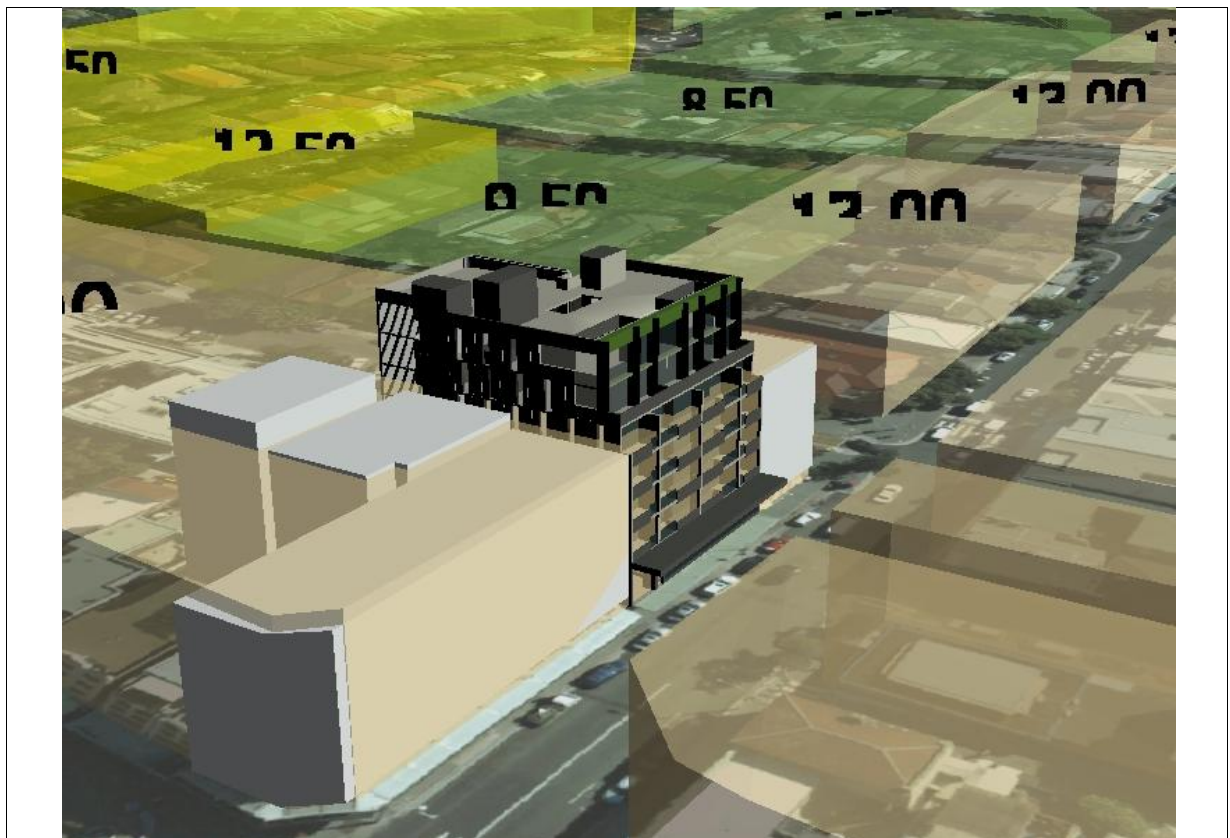
A review of recent development applications located in the vicinity of the site and within the 15m maximum building height limit includes:

- DA/308/2002: 10 Jaques Avenue; 5 storey mixed use building approved 14/2/2003 – Building A: RL 30.15 and Building B: RL 29.56, each complying with the 15m building height control.
- **DA-664/2003/A for the subject site:** 5 storey boutique hotel with 30 hotel suits on four levels and ground floor retail and hotel uses was approved with a building height of 15m (including services and plant) with the exception of lift overrun and solar water panels.
- DA-680/2009 : 1-1A Lamrock Avenue; 5 storey residential flat building approved by the Land and Environment Court 16/11/2010, complying with the 15m building height control which allowed for a building height of 15m (RL 31.940), with plant/lift overrun to 15.5m (RL 32.440). Note: A Section 96 modification was approved for an entire redesign of the building, however the building height remained as per initial Court approval building height).
- DA-407/2010: 82-92 Gould Lane; 5 storey mixed use building approved 28/6/2011 - RL30.26m (15m), complying with the 15m building height control.

- DA-57/2010: 146-148 Campbell Parade; 4 storey mixed use building approved 24/4/2012 - RL 30.74m (14.5m building form, 15.5m with lift overrun), complying with the 15m building height control.
- DA-494/2013/A: 11-13 Hall Street; 5 storey mixed use building approved 24/7/2014 - RL 30.44m (15m building with lift overrun to 16.48m), complying with the 15m building height control.

The 15m maximum building height planning control has been shown to be consistently applied to the site and surrounding area. The 15m height limit preserves the current and desired future character of the area. The proposed development seeks to exceed the 15m height control as evident in Figures 4, 5 and 6, being well above any adjacent building form; this is considered to be inconsistent with the current and future context of the surrounding area and is not supported. It is expected that undeveloped sites in the future would be similarly required to comply with the 15m maximum building height, and this is the consistent character of the area.

Height controls are subjective, as is the interpretation of bulk and scale; however the height control is a standard in Waverley LEP 2012, which has been through a statutory process involving exhibition and public comment. The height control reflects the preferences of the locality community and the height control should be given a deal of weight. As such the clause 4.6 exception is not considered to be well founded and the variation to the height control is not supported. The application is recommended for refusal.



**Figure 4:** Height of proposed building in the context of the Hall Street streetscape (subject site shown in rendered effect, existing buildings shown in grey block form and LEP controls shown in dark beige where height control is 15m, light beige where height control is 13m, green where height control is 9.5m and yellow where height control is 12.5m). *Source: 3D Modelling Officer, Waverley Council*



**Figure 5:** Visual bulk and scale of proposed development as viewed from Bondi Beach Park (adjacent to intersection of Campbell Parade and Hall Street). *Source: Visual impact assessment, Urbis*



**Figure 6:** Visual bulk and scale of proposed development as viewed from Gould Street. *Source: Visual impact assessment, Urbis*

The proposed maximum building height will significantly breach the height, bulk and scale of the surrounding buildings and locality. The building height and form will dominate Hall Street and the public space, resulting in an imposing building which will diminish the significance of the adjoining heritage item and dominate views of Hall Street from adjacent heritage conservation areas, result in adverse overshadowing and view loss impacts.

The proposed height non compliance is contrary to clause 4.3 Height of buildings (1)(a), (d) and (2) as the significant breach of the height development standard will diminish the environmental amenity of neighbouring properties, provides an incompatible building height, bulk and scale that is out of character with the locality, and fails to positively complement and contribute to the physical definition of the street and public space.

The proposed height noncompliance has failed to address the provision of clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The proposed height noncompliance will result in an unacceptable development outcome for the site, fails to demonstrate that compliance with the development standards is unreasonable or unnecessary, does not establish sufficient environmental planning grounds to justify the breach, fails to address the objectives of the height development standard and in the public interest.

Accordingly, the height non compliance is not supported and the application is recommended for refusal.

### **Floor Space Ratio (FSR)**

The proposed development seeks a FSR of 3.61:1 which exceeds the maximum FSR control of 3:1 by approximately 562.84m<sup>2</sup> or 20%. The application is accompanied by a clause 4.6 Exception to a development standard and the summary of the applicant's justification for the height noncompliance is detailed below:

*"A variation to the strict application of the FSR development standard is considered appropriate for the subject site as:*

- The objectives of the WLEP 2012 FSR control are achieved notwithstanding the technical non-compliance.*
- The objectives of the WLEP 2012 B4 Mixed Use Zone are achieved notwithstanding the technical non-compliance.*
- There are sufficient environmental planning grounds to support the proposed variation.*
- The applicant proposes to enter into a VPA with Council to be negotiated with Council post lodgement, with the intent to provide significant public benefits to the surrounding streetscape.*
- The public benefit of maintaining the development standard is not eroded by the proposal given Council's FSR standard has not been strictly enforced and arguably has been virtually abandoned in Bondi via numerous approvals that exceed the FSR standard. This illustrates that the public interest in maintaining the development standard will not be eroded if accepting this requested FSR variation. Therefore strict compliance with the standard is unreasonable and unnecessary in this case, because through Councils VPA Policy they are encouraging variations to the FSR control for development in Bondi, provided proposals demonstrate sufficient planning justification. This Clause 4.6 request demonstrates there are sufficient environmental planning grounds."*

The objectives of this FSR LEP clause are as follows:

*(b) to provide an appropriate correlation between maximum building heights and density controls,*

The applicant justification asserts that the additional height and floor space is setback from the street alignment which will minimise visibility from the public domain and associated impacts on the streetscape. While the upper levels are setback from the street alignment, the proposed FSR non compliance and street setback will not minimise the visibility of the building from the public domain (see figures 5, 6 and 7) and provides a building form and massing which is inconsistent within the locality and streetscape.

*(c) to ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality,*

The proposed FSR non compliance provides a building bulk and scale contrary to the character of surrounding buildings in the streetscape and locality. The proposed building will dominate the streetscape, overwhelm the adjoining heritage item and detract from the adjacent heritage conservation areas. The proposed building bulk, scale and form is not supported in the streetscape and locality.

*(d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

The applicant indicates that the proposal will not cast shadows onto the Hall Street public domain and the proposed side and rear setbacks will minimise any adverse impacts on neighbouring properties and locality. However the shadow analysis diagrams indicate that the proposed development will cast unreasonable shadows over adjoining sites and the public domain, which would be lessened if the proposal was a compliant building bulk and scale.

The environmental amenity of surrounding sites is compromised by the unacceptable building form, separation and design which will impact on overshadowing, and visual/acoustic privacy of nearby buildings comprising of residential uses.

It is also noted that the applicant states the proposed FSR is 3.4:1, representing a 15% non compliance. However, upon peer review of these calculations having regard to the definition of 'gross floor area' in calculating FSR, there are various areas that have been excluded from the applicants figures, which should rather be included as they indeed constitute GFA (ie corridors, hallways). The resultant effect is that the FSR sought is more akin to 3.61:1 for the site.

The proposed FSR noncompliance is contrary to clause 4.4 Floor Space Ratio (1)(b), (c), (d) and (2) as the building is not compatible with the bulk and scale of the locality, unreasonably impacting the public domain and streetscape. In addition, the proposed building form and scale will result in unreasonable environmental impacts on neighbouring properties and the amenity of the locality. The proposed FSR noncompliance is not supported with regards to clauses 4.4 and is recommended for refusal.

The FSR noncompliance is contrary to the provision of clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The excessive FSR will result in building bulk and scale which is out of character with the locality. The applicants FSR justification has failed to establish that compliance with the development standards is unreasonable or unnecessary and no justifiable environmental planning grounds to breach the FSR development standard.

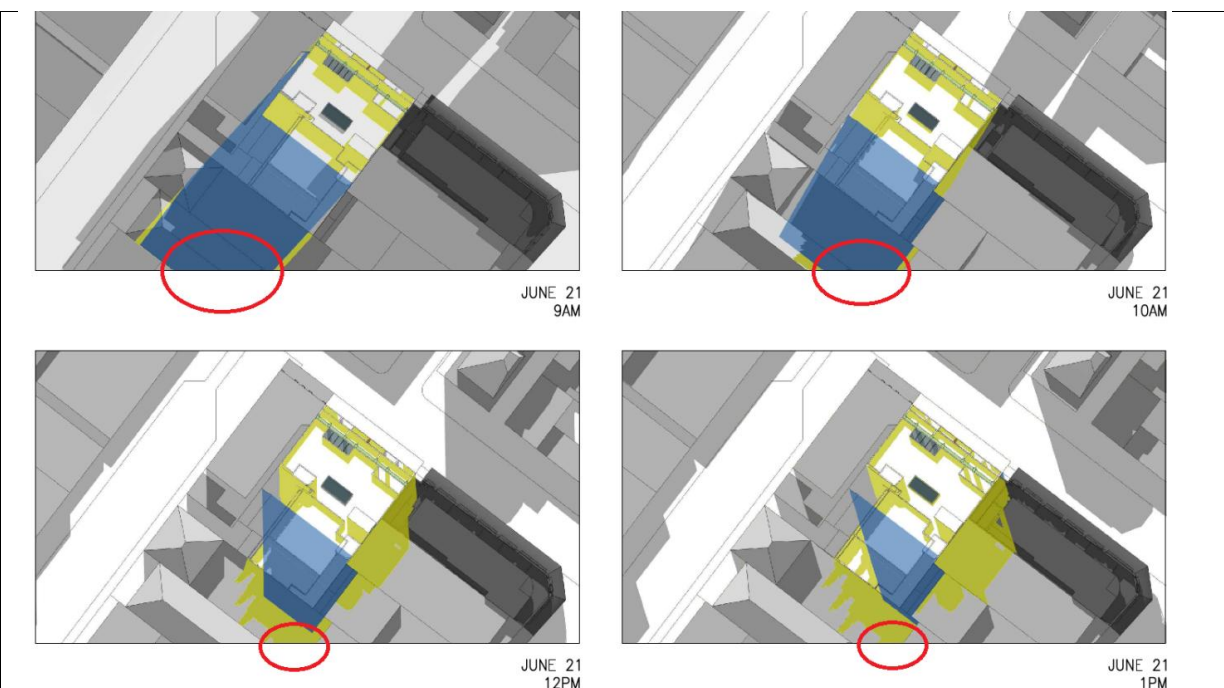
Accordingly, the FSR non compliance is not supported as the proposal is considered to constitute an overdevelopment of the site and the application is recommended for refusal.

### ***Solar access and Overshadowing***

The proposal will adversely affect the solar access provisions to adjoining properties, particularly those located to the southwest and southeast of the site. Furthermore, there are numerous window openings along the eastern elevation of 16-18 Hall St, as well as boundary windows at 2 Jaques Avenue that will be adversely affected due to their close proximity to, or on the shared boundaries.

The density of the site and surrounds is dictated by the FSR and height controls of the LEP, of which the proposal does not comply. The resultant effect are overshadowing impacts that are a direct result of these non compliances, whereby a complying proposal would not cause this extent of overshadowing and thus the impact is not considered to be acceptable.

However, the documentation provided by the applicant is insufficient, whereby the shadow analysis diagrams appear incomplete, not depicting the full extent of shadow impacts on surrounding buildings and sites (see Figure 7 below) and no elevation shadow diagrams have been submitted. In this regard, compliance with the relevant controls has not been adequately addressed, and as there will be increased overshadowing that could be otherwise avoided with a compliant building form, the proposal is not supported.



**Figure 7:** Winter solstice shadow analysis (DA025-REV), red circles highlight deficiencies of shadow diagrams.

## **Views and View Sharing**

The NSW Land and Environment Court has articulated general principles with regard to views (see [\*Tenacity Consulting v Warringah Council \[2004\] NSWLEC 140\*](#)). This case states:

*The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, a four-step assessment should be used:*

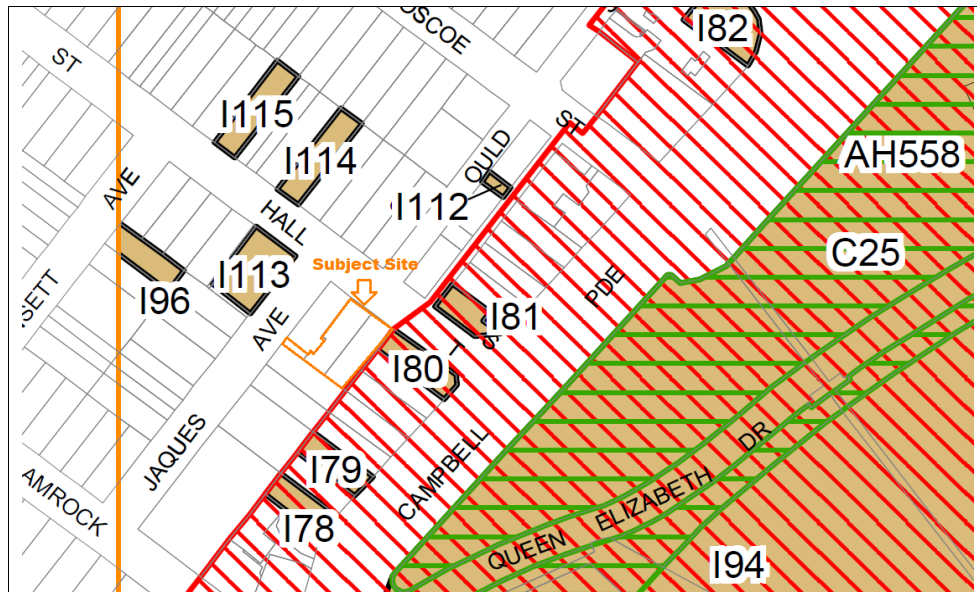
- i) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
- ii) The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*
- iii) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
- iv) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

During the notification period, numerous submissions were received that raised concern for the view impacts of the proposal. Given the topography of the site within the Bondi Basin, it is anticipated that given the significant bulk and scale proposed, that there are view implications as a result of the proposal. In this regard, the applicant has not submitted a view analysis nor provided sufficient justification to address this issue.

Accordingly, the application is not supported as there will be view loss particularly of Bonid Beach, parklands and Ocean as a result of this non compliant building form.

## Heritage Conservation

The subject site adjoins and is located in the vicinity of a number of heritage items and heritage conservation areas identified in Schedule 5 – Environmental Heritage of the WLEP 2012 (see Figure 8 below).



**Figure 8:** Heritage map extract from the WLEP 2012.

As the proposed development is located adjacent to a heritage item (Ravesi's Hotel) and in close proximity a number of heritage items and heritage conservation areas (Campbell Parade and Bondi Beach and parklands), the application was referred to Councils Heritage Architect for consideration and comments. The comments and recommendations provided by Councils Heritage Architect are detailed below:

*"The proposed development for the above address has been reviewed and the following comments and recommendations are provided regarding heritage significance and conservation:*

### **Site Description**

*The site located on the south side of the street is occupied by a two storey mixed use building with residential flats to first floor and retail outlets to ground floor. The building combines late Arts & Crafts Style and Inter War Georgian Styles and is considered to have been constructed in the period 1915-25.*

### **Current Status**

*The building is not listed on Waverley Council LEP 2012 Schedule 5 but retains cohesive stylistic relationship to nearby listed buildings at 124 Campbell Parade (on the corner of Hall Street) and the immediately adjacent Ravesi's Hotel. The building is identified within the Campbell Parade/Bondi Beach Conservation Area as of contributory value with recommendation that future additions be carried out with the existing facade retained.*

### **Proposed Development**

*The application proposes demolition of the existing building and construction of a nine level mixed use building comprising two basement car park levels, ground floor retail and lobby and six levels of apartments and serviced apartments.*

**Comments**

*Council has previously granted consent to a five storey boutique hotel with single basement car park – the consent having lapsed. The previous consent placed substantial emphasis on articulation and detailing cohesive with the adjacent early 20<sup>th</sup> Century buildings.*

*Development and activation of Hall Street over the past decade has seen an established pattern of new works responsive in scale, articulation and detail to the early 20<sup>th</sup> Century streetscape of mixed use buildings. Common aspects of new development include close alignment of new building heights with the prevailing heights of existing buildings in immediate proximity, maintenance of traditional ratios of voids to solids in street elevations and use of finishes and colour schemes reflecting the historic masonry construction dominating the streetscape.*

*The proposed development substantially exceeds the established heights of adjacent buildings, providing little cohesion in form, articulation or finish with these prominent structures in the established streetscape.*

*The proposed mitigating measures namely setbacks and vertical gardens are not considered an effective means of reducing the impact of the works upon the setting – vertical gardens having limited success in marine environments of high wind and extreme exposure and setbacks doing little to conceal the excessive height of the proposed development viewed from Hall Street and the Campbell Parade Conservation Area.*

*The shear blank walls to the side elevations serve to emphasise the excessive height of the building and form a principle aspect viewed above the listed Ravesi Building from Campbell Parade and from Hall Street.*

*The treatment of the street elevation is unrelated to the existing streetscape and does not provide a response commensurate with the cohesion achieved by other recent developments in Hall Street and the Campbell Parade Conservation Area.*

**Recommendations**

*On the basis of lack of cohesion, unsympathetic articulation, excessive height, detailing and finishes, the application is not supported. It is recommended that the applicant redesign the building to a reduced height with emphasise upon cohesion with the setting, the Campbell Parade Conservation Area and the established character of Hall Street maintained in recent approvals.”*

The proposal has failed to adequately address the provisions of clause 5.10 Heritage Conservation specifically subclauses (1)(a) and (b), (4) and (5) as the proposed development will impact on the associated fabric, settings and views of adjacent heritage items and heritage conservation areas. Accordingly, the application is not supported with regards to clause 5.10 Heritage Conservation and is therefore recommended for refusal.

**Inadequate and Inaccurate information**

The application contains inadequate and inaccurate information necessary for its proper assessment having regards to the provisions of Section 79C Evaluation of the Environmental Planning and Assessment Act 1979, specifically the following documentation:

- Shadow analysis diagrams are incomplete failing to allow for assessment of the full extent of shadowing impacts on surrounding buildings and allotments.
- Inconsistencies exist between the architectural drawings, photomontage and landscape concept plans.

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

The proposed development is likely to have detrimental environmental impacts on both the natural and built environments. Accordingly the application is not supported with regards to Section 79C(1)(B) and is recommended for refusal.

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

The site is considered to be suitable for a mixed use (shop top housing) development. However, for the reasons discussed in the report, the proposal is considered to constitute an overdevelopment of the site and subsequently is not supported.

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

The application was notified, advertised and a site notice erected on the site in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. It should be noted that the application was submitted with documentation proposing a six storey building and accordingly notified in this manner. Upon review of the application, it was noted the proposal sought rather, a seven storey building and accordingly the application was renotified. Overall, 31 submissions were received. The location of objectors and issues raised in the submissions are summarised and discussed below.

Location of objectors
2 and 4 Jaques Avenue, Bondi Beach (one submission)
1/3 Jaques Ave, BONDI NSW 2026
Jaques Avenue (location unknown)
Units 307, 311 and another unit not identified at 10 Jaques Ave, BONDI BEACH NSW 2026
3/15 Jaques Avenue, Bondi Beach
108-110 Campbell Parade, Bondi Beach ( <i>View loss objection</i> )
Units 4, 6 and 16 Hall Street Bondi Beach ( <i>View loss objection</i> ) (one owner for four units)
Units 1, 2 and 3 at 40 Hall St, BONDI BEACH NSW 2026 ( <i>View loss objection from units 1 and 2</i> )
61-79 Hall Street, Bond Beach ( <i>View loss objection</i> )
Level 3: Units 305, 306, 307, 308, 309, 310
Level 4: Units 405, 406, 407 and 408
Level 5: Units 505, 506, 507 and 508
Level 6: Units 605, 606, 607 and 608
Level 7: Units 701 and 702
17/89 Roscoe St, BONDI BEACH NSW 2026
10 Consett Ave, BONDI BEACH NSW 2026
Units 5 and 6 at 7-11 Consett Ave, BONDI BEACH NSW 2026
12 Consett Ave, BONDI BEACH NSW 2026
15 Consett Ave, BONDI BEACH NSW 2026
16 Consett Ave, BONDI BEACH NSW 2026
Units 4, 8 and 13/16 Hall Street , Bondi Beach
Shops 3 and 4/16 Hall Street, Bondi Beach
22 Lamrock Avenue, Bondi Beach

Bondi Beach Precinct - DA Representative
5 Victoria Rd, BELLEVUE HILL NSW 2023
Unknown address
Unknown address

#### Summary of objector issues

- Excessive and unacceptable height and FSR
- Proposal will destroy the public domain
- Excessive amount of units and apartments on the site
- Traffic and car parking impacts
- View loss impacts
- Unreasonable impact on the streetscape
- Proposed building will detract from Bondi and Bondi Beach
- Visual and acoustic privacy impacts from units, serviced apartments, open air terrace on level 3 and roof top terrace
- Inadequate public transport to accommodate additional tourists and residents
- Proposal impacts on heritage items and heritage conservation area
- Basement cinema should be considered under a VPA
- Existing building complements the Bondi Beach character and should not be demolished
- Overshadowing and solar access impacts on neighbouring building and the public domain
- Proposed building will block existing windows built to side boundaries (nil setback) at 2 Jaques Avenue
- Acoustic privacy impacts from mechanical plant
- Excavation will undermine the stability of neighbouring buildings
- Request excavation and building work hours be limited to reduce impacts on surrounding residential uses.

The majority of issues raised by objectors are addressed in preceding sections of this report, specifically section 2.1. Any outstanding objector issues are detailed and discussed below.

#### *Issue: Inadequate public transport to accommodate additional tourists and residents*

**Comment:** While it is acknowledged that existing public transport capacity is stretched at various peak periods (weekday mornings, evening and weekends), the site is located in close proximity to Campbell Parade which is well serviced by public transport options (as outlined in Part B8 of the WDCP 2012). Accordingly inadequate public transport capacity does not warrant refusal of the application.

#### *Issue: Basement cinema should be considered under a VPA*

**Comment:** The application is not supported, accordingly the VPA policy is not applicable to the development.

#### *Issue: Proposed building will block existing windows built on boundary shared with 2 Jaques Avenue.*

**Comment:** The adjoining property at 2 Jaques Avenue exhibits boundary windows along the shared boundary with the subject site that will be blocked as a result of the proposed development. Such windows are on the ground floor level, and thought to be part of the retail tenancy of the building. While the application is not supported and is recommended for refusal, it is noted that in any case, retaining light to these windows in the event the subject site is developed would be unreasonable to protect and maintain.

*Issue: Acoustic privacy impacts from mechanical plant*

**Comment:** In the event the application is approved appropriate conditions of consent regarding acoustic privacy impacts from mechanical plant will be imposed.

*Issue: Request excavation and building work hours be limited to reduce impacts on surrounding residential uses.*

**Comment:** In the event the application is approved, standard conditions of consent regarding hours of excavation and building works will be imposed upon any development consent.

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

The proposal is not in the public interest contrary to Section 79C(1)(e) Environmental Planning and Assessment Act 1979.

## **3. REFERRALS**

### **Shaping Waverley: Heritage Advisor**

The application was internally referred to Councils Heritage Advisor who provided comments and recommendations as included above in report. Accordingly, the application is not supported by Council's Heritage Architect and is recommended for refusal.

### **Shaping Waverley: Urban Designer**

The application was internally referred to Council's Urban Designer who provided the following comments:

#### **ISSUES**

*The Development Application is not supported for the following reasons:*

#### **Building Height and Scale**

*The height of the proposal is not compatible with the future character of the Bondi Beach area or "compatible with the height, bulk and scale of the existing character of the locality". The height is significantly (approx. 10m) over the Waverley LEP 2012 4.3 Maximum Height of Buildings control and does not "positively complement and contribute to the physical definition of the street". The scale of the proposal both dominates the adjacent heritage item and will create an undesirable precedent in the area.*

*The building height and scale is also inconsistent with the Bondi Beachfront Area E2 DCP Control 2.1.3 Built Form (a) The built form of new and refurbished buildings must complement the height and scale of the prevalent built form within the Bondi Beachfront Area. The proposal also does not reflect the desired future character of the area outlined in the Waverley DCP 2012 in regards to Height and Bulk, where "a maximum of 4 storeys is permitted". As the building is significantly out of scale with its surroundings, it is recommended that the development does not exceed the existing LEP height control.*

#### **Public Domain**

*Proposed 20m shop front is inconsistent with the 'small shop character' of the area defined in Bondi Beachfront Area E2 DCP. The existing street frontage includes 3 separate shopfronts. By reducing the number of retail premises, the proposal reduces the diversity of retail along Hall Street. Consider a through site link activating existing laneways to Hall Street. It is*

*recommended that the retail space on the ground floor consists of multiple smaller separate shops as per control 2.11 Public Domain Interface (d) New shop fronts must have proportions and characteristics that are consistent with other shop fronts in the Bondi Beachfront Area.*

### **Hall Street Façade**

*The existing building is defined as a contributory building as per DCP E2 Figure 49 Heritage Items and Contributory Buildings.*

*The new proposed Hall Street façade is not in character with the existing streetscape. The rhythm and proportion of façade details do not respond to the neighboring heritage item as per DCP 2.1.3 Built Form Control (b) Where a building façade adjoins a heritage item or a contributory building, it must have a façade that complements the form and proportion of the building.*

*The architectural expression of the façade does not reflect the character of Bondi Beach or site specific design. Refer to control (i) New facades must be predominately rendered masonry with solid parapets and have a vertical expression. The gridded and predominately glazed façade should be articulated to respond to the existing streetscape.*

*The upper two levels of the proposal are inappropriate in the streetscape. The bulk and scale of these additional levels is not masked by the greenwalls that clad the structure. The impact of these additional levels and the extra half storey over the existing LEP control is considered inappropriate to the area.*

### **Floor to Ceiling Heights**

*RFDC floor to ceiling height requirements have not been followed.*

### **Visual Impact on Campbell Parade**

*The bulky two top storeys of the proposed development, tower above the existing heritage façade when viewed from Campbell Parade. This is not conducive with the desired future character of the area. Additionally plant equipment should not be seen from Campbell Parade. This degree of visual impact on a major public space is not acceptable. See Figure 5.*

### **Awning**

*There is concern regarding inconsistencies with awning details provided. Extend awnings to meet existing awnings on the neighbouring site but step down awnings to a pedestrian scale. Ensure continuous awnings along Hall Street footpaths per control (i) All primary commercial street frontages and shop fronts must have continuous awnings that relate in height, style and alignment to adjacent awnings.*



**Figure 9:** Awnings should be continuous and respond to existing neighbours, whereby the proposal fails this (see red circles).

**Solar Access, Passive Ventilation and Views**

*Solar access and ventilation provided by the light well (court) is considered insufficient to provide ample ventilation and light habitable rooms in the centre apartments. Ensure that the building complies with SEPP 65 requirements for passive ventilation and solar access.*

*It is recommended that solar access studies and view analysis studies in regards to non complainant built form and impact on neighboring buildings occur. As recommended by the SEPP 65 panel "the applicant should be requested to provide sufficient information on the location of nearby windows that would lose solar access currently enjoyed, privacy, undesirable shadow or view loss that might be caused by any non-conforming parts of the proposal."*

**Serviced Apartments Access**

*The serviced apartments entry has no reception or key collection point. It is recommended that this is redesigned to ensure accessibility for visitors. Passive surveillance should also be provided to the entry and mailbox area.*

**Sustainable Waverley: Waste Minimisation and Management**

The application was internally referred to Council's Waste Policy and Education Coordinator for comments regarding the waste management and minimisation for the site. Comments received advised that the waste generation rates for the proposal are acceptable and appropriate conditions could ensure compliance in this respect should the application be supported.

However, concerns were raised in relation to the collection arrangements proposed for bins to be collected from Jaques Avenue which are unacceptable, specifically as the proposal relies on the placement of a large number of bins on the verge adjacent to other properties to await collection, on numerous days of the week.

Accordingly, three options were provided to ensure the desired outcomes are met:

- *Propose a suitable driveway/entrance to permit onsite collection of mobile garbage bins. Should a collection vehicle be required to drive onto the property to collect waste and recycling bins, the site must be designed to allow collection vehicles to enter and exit the property in a forward direction and have adequate vehicle clearance. In addition, all access roads and driveways must comply with BCA, AS and Annexure B1-3 in the Waverley Development Control Plan 2012.*
- *The site manager must present all bins, both residential and commercial, within one hour of collection and remove all bins from the kerbside no longer than one hour after collection. It should be noted that this is not Council's preferred outcome for this development due to the difficulties in coordinating collections and the logistics required by building management to ensuring cleaning staff are onsite in order to comply with this condition of use.*
- *Propose negotiations with Council to explore the installation of underground bin storage and collection and equipment from public land in front of the property. More information on a suitable example, which has been installed in the City of Sydney can be found on the following website*

<http://www.cityofsydney.nsw.gov.au/vision/better-infrastructure/buildings-and-facilities/underground-waste-trial>

*It should be noted that the preferred option is for the collection of mobile garbage bins from the property as this is the most practical option for collection and will compliment the waste and recycling transportation systems already proposed by the applicant.*

Typically, new development of this scale requires on-site waste collection to occur on-site within the proposed development. In this regard, it is acknowledged that the vehicular access point to the site from Jaques Avenue is narrow, allowing only a single vehicle to use driveway at any one time. However, there is an onus on the applicant to explore suitable alternatives that enable waste collection to occur that will not adversely impact on the amenity of adjoining properties. As such, this component of the proposal is unacceptable in the form submitted.

### **Creating Waverley: Stormwater Management**

The application was internally referred to Council's Senior Design Team Leader who advised that the submitted stormwater drawings do not meet the requirements of Council and are not supported, specifically having regard to the site's location in a flood prone area. The comments are summarised as follows:

*The drawings do not comply with the Waverley Development Control Plan 2012 and the Waverley Council Water Management Technical Manual with respect to:*

- *The proposed development location is in Flood Prone Area (Catchment 8 under the Waverley Council Drainage System Map). According to the Waverley Council Water Management Technical Manual and Stormwater Drainage System Planning, water management concept plan should be designed considering the following guidelines:*
  - (i) *1 in 100 years Water Level is RL 15.52m AHD*
  - (ii) *Minimum Free Board should be 300mm.*
  - (iii) *Habitable floor level should be RL +15.82m AHD or above.*
- *The connection details of new stormwater pipe are also required as per section 2.2.1 of Waverley Council's Water Management Technical Manual.*
- *An engineering design of the proposed stormwater line is required including a Hydraulic Grade Line (HGL) analysis of pipe between the On-site Stormwater Detention (OSD) tank to existing Council's Stormwater Drainage pit. The long section information to include existing services crossing, existing surface levels, pipe invert and obvert levels.*
- *It is unclear from the drawings how stormwater is collected to the OSD tank.*

*An updated Water Management Plan including OSD and details along with checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.*

**Note:** *Since a sewer main runs through the property, plans must also be presented to a Sydney Water Quick Check Agent for their approval."*

### **Waverley Traffic Committee**

The application has been internally referred to the Waverley Traffic Committee by Council's Manager of Transport and Development. The Waverley Traffic Committee has provided comments and recommendations regarding the proposed development as detailed below:

1. *A loading area with access and manoeuvring suitable for a B 99 Vehicle, 5.2m in length, being provided and signposted to Council's satisfaction. The facility is to be designed and constructed to provide for movement into and out of the site in a forward direction.*

2. *The minimum quantum of visitor parking be 2 spaces to comply with the requirements of WDCP – 2012.*
3. *The resident, visitor and disabled spaces being clearly marked, numbered and signposted to Council's satisfaction.*
4. *Stop signs, speed hump and a white painted holding line being installed on the driveway inside the Jaques Avenue property boundary.*
5. *An electronically operated traffic control system be installed to allow for only one vehicle to be on the access driveway between Jaques Avenue and the basement car park at any one time. Details to be submitted to the Executive Manager, Creating Waverley prior to the issue of the Occupation Certificate.*
6. *A 6 m long 'NO PARKING' zone be provided in Hall Street adjacent to the site to provide for patrons of the serviced apartments. The applicant is to pay Council in accordance with Council's Fees and Charges.*
7. *A "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) is to be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of a Construction Certificate and the undertaking of any demolition, excavation, remediation or construction works on the site. The CVPPM shall provide details as follows:*
  - (a) The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.*
  - (b) The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.*
  - (c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.*
  - (d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.*
  - (e) The location and materials of construction of temporary driveways providing access into and out of the site.*
  - (f) The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.*
  - (g) The hours of operation of demolition/construction vehicles.*
  - (h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.*
  - (i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:*
    - i. the route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route;*
    - ii. any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians;*
    - iii. the type(s) of material on which pedestrians will be required to walk;*
    - iv. the width of the pathway on the route;*
    - v. the location and type of proposed hoardings;*
    - vi. the location of existing street lighting.*

8. *The Committee believes the off-street parking provided by the proposal is insufficient and recommends Council review the minimum car parking generation rates in the WDCP plan 2012.*

**Digital Waverley: Land Information and GIS Officer**

No objection raised subject to the imposition of standard conditions.

**4. SUMMARY**

The proposal provides for the demolition of existing buildings at 10, 12 and 14 Hall Street, and construction of a seven storey mixed use (shop top housing) building comprising of two basement levels (18 car parking spaces, 22 bicycle spaces, 5 motor cycle spaces and garbage rooms), one commercial/retail shop, 20 serviced apartments and 21 residential units.

The proposed shop top housing development significantly breaches the height and FSR development standards, provides an inappropriate relationship to the adjoining heritage item and adjacent heritage conservation areas. The proposal is contrary to the provisions of SEPP 65 Design Quality of Residential Flat Development, the Waverley Local Environmental Plan and the Waverley Development Control Plan 2012. The proposed building will result in unacceptable impacts on the public domain, streetscape and locality. While the proposed building form, bulk and scale will diminish the environmental amenity of surrounding residential uses.

Thirty-one public submissions were received in relation to the application which raised concerns such as bulk and scale, overshadowing, loss of visual and acoustic privacy, heritage, car parking, vehicular access, public domain impacts and view loss.

The proposed development has been considered under the relevant provisions of the Environmental Planning and Assessment Act 1979 including SEPP 65, WLEP 2012 and WDCP 2012, and the application is not supported. Accordingly, the application is recommended for refusal.

**5. RECOMMENDATION TO THE JOINT REGIONAL PLANNING PANEL**

That the Development Application be **REFUSED** by the Joint Regional Planning Panel for the reasons detailed in Appendix A:

**Report Prepared by:**

Andrew Connor  
**Senior Development Assessment Planner**

**Date: 12 January 2015**

**Application reviewed by and agreed on behalf  
of the Development and Building Unit:**

Angela Rossi  
**Manager, Development Assessment (Central)**

**Date: 15 January 2015**

## APPENDIX A – REASONS FOR REFUSAL

1. The proposed development is contrary to the provisions of State Environmental Planning Policy No 65 - Design Quality of Residential Flat Development, having regard to section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
  - (a) Clause 2 Aim, objective etc, subclauses (3)(a)(ii) and (iii), (b) and (d) as the proposed development fails to achieve the objectives of urban planning policies of the local context, fails to provide an appropriate built form and aesthetic qualities to positively contribute to the streetscape, and fails to maximise the amenity, safety and security for future occupants and the wider community.
  - (b) The proposed development is contrary to Part 2 Design quality principles, in particular Principles; 1 Context, 2 Scale, 3 Built Form, 6 Landscape, 7 Amenity and 10 Aesthetics.
2. The proposed development is contrary to the following provisions of the Waverley Local Environmental Plan 2012, having regard to section 79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979:
  - (a) Clause 1.2 Aims of plan (2)(g) as the proposed development fails to preserve the environmental, natural and built heritage of Waverley.
  - (b) Zone B4 - Mixed Use; Objectives of zone as the proposal fails to integrate a suitable shop top housing development within the zone.
  - (c) Clause 4.3 Height of buildings (1)(a) and (d), and (2) as the proposal significantly breaches the height development standard which will diminish the environmental amenity of neighbouring properties. The proposed building is incompatible with the height, bulk and scale of the existing character of the locality, and fails to positively complement and contribute to the physical definition of the street network and public space.
  - (d) Clause 4.4 Floor space ratio (FSR) (1)(b), (c) and (d), and (2) as the proposed FSR fails to provide an appropriate correlation between the maximum building height and density controls. The FSR non compliance provides a building which is not compatible with the bulk, scale, streetscape and existing character of the locality, and results in unreasonable environmental amenity impacts on neighbouring properties and amenity of the locality.
  - (e) Clause 4.6 Exceptions to development standards (1)(b), (3)(a) and (b), and (4)(a), as the proposed building will not result in a better development outcome for the site. The applicant's clause 4.6 Exceptions to development standards fails to justify that compliance with the development standards is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breaches to the height and FSR development standards. The proposed development is contrary to the objectives of the development standards, the proposed height and FSR breaches are contrary to the zone objectives and proposal is not in the public interest.
  - (f) Clause 5.10 Heritage Conservation (1)(a) and (b), (4) and (5) as the proposed development will impact on the associated fabric, settings and views of adjacent heritage items and heritage conservation areas.

- (g) Clause 6.3 Flood planning (3)(a), (b) and (c) as the proposed development has failed to incorporate all measures to mitigate potential flood hazards on the site.
3. The proposed development is contrary to the following sections of the Waverley Development Control Plan 2012, having regard to section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
- (a) Part B1 Waste; clause 1.2 - Ongoing management objective (d) as the proposed development fails to minimise amenity impacts on the surrounding area (Jaques Avenue) during the collection of waste and recyclables.
  - (b) Part B6 Stormwater; clause 1.2 - Ongoing management objective (d) as the proposed development fails to minimise amenity impacts on the surrounding area (Jaques Avenue) during the collection of waste and recyclables.
  - (c) Numerous provisions of Part C2 Multi unit and multi dwelling housing, in particular:
    - i. Site, scale and frontage
    - ii. Height
    - iii. Building separation
    - iv. Building design and streetscape
    - v. Pedestrian access and entry
    - vi. Landscaping
    - vii. Communal open space
    - viii. Private open space
    - ix. Solar access and overshadowing
    - x. Views and view sharing
    - xi. Visual privacy and security
    - xii. Apartment size and layout
    - xiii. Storage
    - xiv. Acoustic privacy
    - xv. Natural ventilation
    - xvi. Building services
  - (d) Part D1 Commercial and retail development clause 1.1.3 (a) and (e) as the provision of future ducting and ventilation shafts are not identified on the relevant plans.
  - (e) Numerous provision of Part E2 Bondi Beachfront area, in particular:
    - i. Public domain interface
    - ii. Building use
    - iii. Built form
    - iv. Roofs
    - v. Views
    - vi. Heritage conservation
    - vii. Infill buildings
    - viii. Campbell Parade Centre
  - (f) Part F2 Tourist accommodation, in particular:

- i. Orientation and design of private open spaces to individual apartments will adversely impact on surrounding properties
  - ii. Acoustic and visual privacy impacts from common open spaces on level 3 and rooftop
  - iii. Inappropriate pedestrian entry and no lobby/reception facilities.
- 4. The proposal will have an adverse impact on the amenity (solar access, overshadowing, visual and acoustic privacy and significant view loss) of surrounding properties and will have an unacceptable impact upon the existing streetscape and public domain, having regard to section 79C(1)(b) and (d) of the Environmental Planning and Assessment Act 1979.
- 5. The proposal is not in the public interest contrary to Section 79C(1)(e) Environmental Planning and Assessment Act 1979.
- 6. The application is inadequate in respect to the following information considered necessary for its proper assess having regards to the provisions of Section 79C Evaluation of the Environmental Planning and Assessment Act 1979:
  - (a) Shadow diagrams to allow for the assessment of the full extent of shadowing impacts on surrounding allotments.
  - (b) Inconsistencies between the architectural drawings, photomontage and landscape concept plans.
  - (c) No view analysis submitted to properly assess the view implications of the proposal.