

COUNCIL ASSESSMENT REPORT

Panel Reference	2018scl028
DA Number	DA-533/2017
LGA	Waverley Council
Proposed Development	Partial demolition of buildings and the construction of a 13 storey mixed use building including 124 residential apartments, 200m ² of retail floor space, a registered club at ground and first floor levels and four levels of basement parking
Street Address	28-34, 36, 38 and 40-42 Bronte Road and 84 Ebley Street, Bondi Junction
Applicant	Capital Bluestone (BJRSL) Pty Ltd ATF the Capital Bluestone (BJRSL) Unit Trust c/- Urbis Pty Ltd
Owner	Bondi Junction – Waverley RSL Sub Branch Club Limit
Date of DA lodgement	12/12/2017
Number of Submissions	51 (includes 27 in support)
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 3 – General Development that has a capital investment value of more than \$30 million. The Capital Investment value of the proposal is \$65,308,145
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy 55 - Remediation of Land • State Environmental Planning Policy 64 – Advertising Signage • State Environmental Planning Policy 65 - Design Quality of Residential Flat Development • State Environmental Planning Policy (BASIX) 2004 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Regional Environmental Plan (Sydney Harbour Catchment) 2005 • Waverley Local Environmental Plan 2012 • Waverley Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Statement of Environmental Effects • Copy of submissions • Clause 4.6 statement • Applicant request for amendments
Report prepared by	Jo Zancanaro – Senior Development Assessment Officer, Waverley Council
Report date	5 July 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

Conditions Have draft conditions been provided to the applicant for comment? **No**

1. EXECUTIVE SUMMARY

Council is in receipt of a development application from Capital Bluestone (BJRSL) Pty Ltd ATF the Capital Bluestone (BJRSL) Unit Trust c/- Urbis Pty Ltd for a 13 storey mixed use building at 28-34, 36, 38 and 40-42 Bronte Road and 84 Ebley Street, Bondi Junction that includes:

- Partial demolition of buildings
- Thirteen storey mixed use development with a total GFA of 12,807m² and an FSR of 5.88:1
- Ground floor residential lobby, 200m² retail space plus registered club over two levels with a floor area of 2,084m²;
- 12 levels of apartments comprising 124 apartments; 52 x 1 bedrooms, 61 x 2 bedrooms and 11 x 3 bedrooms
- Rooftop communal open space on level 12
- Four levels of basement car parking.

The site comprises six properties containing two storey commercial/retail buildings to Bronte Road and three storey RSL building with frontage to Gray Street and through to Ebley Street. The site has a total combined area of 2,180m² and has frontages to Bronte Road (west), Gray Street (north) and Ebley Street (south). The site is affected by a 3.66m wide site covenant to Ebley Street (south) for road widening benefitting Waverley Council. The site slopes gently down from east to west.

Adjoining the site to the east is a two storey commercial development, to the south on the opposite side of Ebley Street is a range of mixed use commercial and residential land uses. Diagonally opposite is the former Grand Hotel site which is currently under redevelopment for a mixed use commercial and residential building. The low density residential Botany Street Conservation area and the Mill Hill Conservation area are located south-east and south-west of the site. To the west of the site on the opposite side of Bronte Road is predominantly a mix of retail and residential premises. The mixed use Genoa commercial/residential development is located at the corner of Ebley Street and Bronte Road which presents as 2-6 storeys to the Bronte Road corner and 16 storeys to Ebley Street. To the north on the opposite side of Gray Street is a number of small two storey retail premises and the existing Westfield development.

The site is zoned B4 – Mixed Use according to the Waverley Local Environmental Plan 2012 (WLEP). The applicable height development standard is 32m and floor space ratio standard is 6:1 as per WLEP. The lots known as 28-42 Bronte Road, Bondi Junction are listed as local heritage items (No. I171), for their façade significance according to the WLEP.

Prior to submission of this DA, Council provided Pre DA advice to the applicant on alternative schemes for the site. The key advice provided related to the urban form of the building in relation to the development controls identified for the site.

The development application submitted seeks a variation to the height development standard in the WLEP. The proposed height is 45.5m, a variation of 13.5m above the development standard. A Clause 4.6 submission has been provided which is attached to this report. The submission for the height non-compliance with Clause 4.3 of the WLEP is not considered to sufficiently address Clause 4.6(3) and applying flexibility to the control in this case is not considered to be in the public interest, failing clause 4.6(4) and therefore development consent should not be granted.

The development application submitted also seeks a variation to a number of controls of Waverley Development Control Plan 2012 (WDCP). These include urban form (Part E1 1.2), Setbacks (Part E1 1.8 and 1.10) and height (Part E1 1.13).

The result of this design approach is a monolithic tower that has a heavy and wide profile, creating visual bulk, massing and shadow impacts on surrounding development including the low density residential development to the south of the site.

51 submissions have been received to the proposal, 27 of which are in support (the majority of the submissions in support are from Club RSL members who reside outside of the immediate locality).

Aside from the key issues above, there are other lesser issues regarding apartment amenity, podium design, car parking and energy efficiency which need to be addressed in a re-design of the building.

For these reasons, Council concludes that the proposal does not adequately comply with the provisions of the SEPP 65, Waverley LEP and DCP, contrary to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979 (the Act), resulting in unreasonable impacts on the surrounding locality which is contrary to Section 4.15(1)(b) of the Act. Therefore the proposal is considered unsuitable for the site failing section 4.15(1)(c) of the Act. For these reasons, approval of the application is considered to be against the public interest failing Section 4.15(1)(e) of the Act.

The application is recommended to be refused.

2 PREAMBLE

2.1 Site and Surrounding Locality

The Site and Location

The site includes 28-34, 36, 38 and 40--42 Bronte Road and 84 Ebley Street, Bondi Junction which comprises six properties containing two storey commercial/ retail buildings to Bronte Road and three storey with basement Club RSL building with frontage to Gray Street and through to Ebley Street (refer to Figure 1 Site Map). The sites are described as Lot 1 DP621398, Lot A DP161158, Lots 1-3 DP226425 and Lot 1 DP735713. The amalgamated site has a total combined area of 2,180m² and has frontages to Bronte Road (west), Gray Street (north) and Ebley Street (south). The site is affected by a 3.66m wide site covenant to Ebley Street (south) for road widening benefitting Waverley Council. The site slopes gently down from east to west.

The lots known as 28-42 Bronte Road, Bondi Junction are listed as local heritage items (No. I171), for their façade significance according to the WLEP.

Adjoining the site to the east is a two storey commercial development, to the south on the opposite side of Ebley Street is a range of mixed use commercial and residential land uses. Diagonally opposite is the former Grand Hotel site which is currently under redevelopment for a mixed use commercial and residential building. To the west of the site on the opposite side of Bronte Road is predominantly a mix of retail and residential premises. The mixed use Genoa commercial/ residential development is located at the corner of Ebley Street and Bronte Road which presents as 2-6 storeys to the Bronte Road corner and 16 storeys to Ebley Street. To the north on the opposite side of Gray Street is a number of small two storey retail premises and the existing Westfield development.

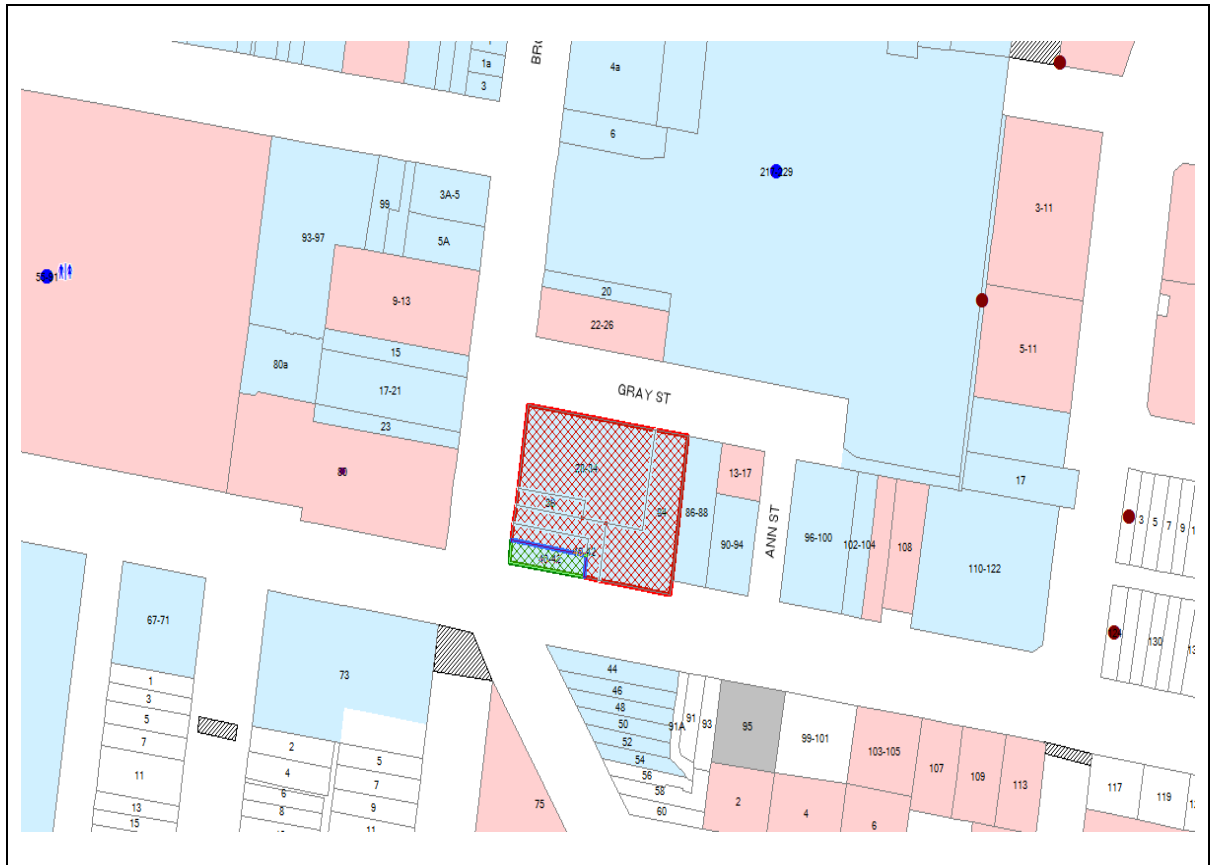


Figure 1: Site Map



Figure 2: View of the site from corner Bronte Road and Gray Street



Figure 3: Site viewed from Bronte Road (looking north/east)

2.2 Relevant History

- ***Pre-Development Application PD11/2017:***

A Pre-DA was submitted on 31 March 2017 for this site from the same applicant. The proposal included an 84m building in an area with a 32m height control. The applicant argued that the height was appropriate given its location on a corner and referenced it as being a gateway site. It was also argued by the applicant that the FSR and height development standards were inappropriate for the site. Council provided feedback that the significant variation would not be supported and that the controls were relevant to the site and should be complied with. Should such a variation to development standards be sought, then the applicant is encouraged to seek a Planning Proposal for the site rather than seek such exceedances via the Development Application process.

Additionally the Waverley DCP (WDCP) 2012 requires a distinct separation between the tower and podium form to reduce the visual impacts of the tower for pedestrians on the street. The applicant was also advised that the proposal needs to have regard to shadow impacts on the conservation areas located to the south-east and south-west of the site.

- ***Background for other relevant matters***

A Planning Proposal (PP) was recently assessed and a Gateway Determination made by the Department of Planning and Environment (DPE) for the property to the east of the site at 96-122 Ebley Street, (corner of Ann Street and Hollywood Avenue) Bondi Junction. Initially the PP sought to rezone the land from B3 – Commercial Core to B4 – Mixed use; increase the height control from 32m to 39m; and increase the FSR from 4:1 to 5:1. Council resolved to reject the increase in height but resolved to support the change in zoning and FSR increase. Council received a Gateway Determination for the site from the DPE, with Council's position to reject the increase in height supported by the DPE.

Council has undertaken extensive research, consultation and consideration of the planning controls that apply throughout Bondi Junction, which culminated in the adoption of Waverley LEP 2012 and Waverley DCP 2012. This was part of a considered and co-ordinated approach with specialist architects, urban designers and strategic planners. Gateway sites within the Bondi Junction precinct have been identified with tower development following the alignment of Syd Einfeld Drive. Development on the

south side of Bondi Junction is to form a modest scale as it links into the predominantly residential and heritage conservation area on the south side of Ebley Street.

Approval of the extra height on the Club Bondi Junction RSL site, the subject of this DA and directly opposite the recent PP site (96-122 Ebley Street), would be inconsistent with the desired urban design outcome for this section of Bondi Junction. Allowing the breach in the height control above 32m will essentially result in a WLEP height change via a DA which will have significant and undesirable flow on effects. The recommended avenue to seek such a variation to the planning controls is via a Planning Proposal, in lieu of a Development Application.

Undeveloped sites directly opposite the subject site to the west on Bronte Road and directly to the east have a height control of 32m and a FSR of 4:1.

2.3 Proposal

The application proposes a 13 storey mixed use building, defined as 'shop top housing' under the WLEP. The development includes the following:

- Partial demolition of buildings
- Thirteen storey mixed use development with a total GFA of 12,807m² and an FSR of 5.88:1
- Ground floor residential lobby, 200m² retail space plus registered club over two levels with a floor area of 2,084m²;
- 12 levels of apartments comprising 124 apartments; 52 x 1 bedrooms, 61 x 2 bedrooms and 11 x 3 bedrooms
- Rooftop communal open space on level 12
- Four levels of basement car parking.

Specific details of the development are as follows:

Basement levels (RL67.35 – 76.35)

- Four (4) basement levels with 172 car parking spaces which includes 122 residential spaces, 1 x loading bay and 1 x car wash bay, 25 visitor spaces, 3 x car sharing spaces and 22 spaces allocated to the Registered Club (of the car spaces, 15 are accessible spaces), 153 bicycle spaces, 35 motor cycle spaces and store rooms and garbage rooms;
- End of trip facilities;
- Associated vehicle access ramps, stairs and lifts;
- Substation; and
- Plant and equipment.

Ground Floor (RL79.0 - 80.0)

- Retail floor space (200m²), residential apartment lobby;
- On the ground floor the club is to comprise bar, restaurant, kitchen and associated back of house, gaming area including an indoor and outdoor facility.

Level 1 (RL 84.5)

- Registered club comprising two function rooms, bar, dining space and kitchen, outdoor dining space;
- Three (3) residential apartments fronting Gray Street (2 x one bedroom, 1 x two bedroom);
- Plant and equipment.

Level 2 (RL89.0)

- Comprising of 12 residential apartments (5 x one bedroom, 7 x two bedroom);
- Each of these units is provided with a terrace area located over the podium;

Levels 3-8 (RL92.1 – RL107.6)

- Each level comprising of 12 residential apartments (5 x one bedroom, 7 x two bedroom);

Level 9-11 (RL110.7 – RL116.9)

- Each level comprising of 11 residential apartments (5 x one bedroom, 3 x two bedroom and 3 x three bedroom units);

Level 12 (RL120.05)

- Comprising of four (4) residential apartments (2 x two bedroom units and 2 x three bedroom units); and
- Common area comprising swimming pool, BBQ facilities, landscaping and open space;

Level 13 (RL123.2)

- Comprising of private roof terrace allocated and accessed from the three bedroom units below;
- Plant and equipment, lift overrun.



Figure 4: Perspective views from Ebley Street looking west and Bronte Road/ Ebley Street corner

3. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

3.1 Section 4.15(1)(a) Planning Instruments and Development Control Plans

The following is an assessment against relevant legislation, environmental planning instruments, including State Environmental Planning Policies (SEPPs), and development control plans.

3.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A Thermal Comfort and BASIX Assessment Report has been submitted with the development application. The report identifies that not all units satisfy thermal comfort targets and recommended actions are provided. Should the application be approved, a standard condition should be imposed to ensure that the measures and recommendations detailed in the BASIX report are implemented.

3.1.2 SEPP 55 Remediation of Land

Council's Health and Compliance Officer has recommended that if the application be approved, it be subject to a conditions requiring an environmental site assessment, action plan and a site audit statement to be provided stating that the site will be suitable for the intended use.

3.1.3 SEPP (Infrastructure) 2007

The site is not identified to be within the railway corridor nor immediately adjacent to the rail corridor, therefore consultation with Transport for NSW is not required, nor an assessment against clause 85 and 86 of the SEPP. The site is not located on a classified road, therefore an assessment against clause 101 of the SEPP is not required.

3.1.4 SEPP No.64 – Advertising and Signage

It is proposed to erect signage associated with the RSL Club and the retail tenancies. The signage is proposed under awnings and fixed to the building. No plans or elevations have been provided of the proposed signage and the documentation references eight signs of a size from 1.1m x 2.5m up to 11.3m x 0.6m. Should the application be approved, this can be addressed by a condition on the development consent.

3.1.5 SEPP 65 (Design Quality of Residential Apartment Development)

The application was referred to the Waverley Design Excellence Panel on 19 February 2018. The Panel's review of the proposed development with regard to the nine design quality principles under the SEPP is summarised below with a planning response to each. The Panel recommended that the scheme be amended and returned for review. A design verification statement was provided by Group GSA Director Lisa-Maree Carrigan, registered architect from Group GSA. The applicant provided a response to this commentary via email on 4 May 2018, however this is not considered to adequately address the issue relating to the massing of the proposed tower and the height breach proposed.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment
1. Context & Neighbourhood	<p>Only 2 of the 5 buildings on the site are identified in the HIS as having heritage significance, being the W. Stone buildings (28-32 Bronte Rd) built in 1886-1900. As the report notes, those parts of the original dividing walls and columns are evident and some interpretation of the rooms immediately behind the facade may be warranted for retention/restoration rather than full demolition.</p> <p>The proposal should meet, and preferably exceed the requirements of the Apartment Design Guide.</p> <p>The proposal in its current form is considered to be too tall, wide, deep and unarticulated to meet the desired future character / interface between Bondi Junction and the lower, fine grained and heritage conservation areas immediately to the south. This is clearly shown in the east-west section looking north. Further, the proposed bulk and height are overly dominating in relation to the heritage building.</p> <p>The site does not need to be considered as a gateway, rather the southern edge of Bondi Junction and should act to moderate the effects of the taller buildings to the north.</p> <p>Planning Comment: This is agreed. The proposed tower form is not articulated, and is too tall, wide and deep, appearing monolithic, contrary to the objectives of the DCP controls for the Bondi Junction Centre.</p>
2. Built form & Scale	<p>The proposed two storey podium to Ebley Street is considered a very good urban and heritage response however the Panel recommends that the remainder of the proposal respects the DCP setbacks and LEP height control. The 6m setback on the south should also extend from the line of the 3.66m dedication to further improve Ebley Street. This could help to compensate for the lack of deep soil or large trees at ground level on the site by increasing the opportunity for sunlight to the public areas to the south. The southern 3.66m setback should be fully dedicated to Council without basement encroachment on the new public space, however the basement substation in this zone is supported. Less basement area will be needed if the building observes the controls.</p> <p>The 6m setback from Bronte Road should also be observed as this has the potential to provide better light and sunlight to the south, more appropriate curtilage to the heritage buildings. The design currently brings natural light into the club through the windows above the stair and this idea could be expanded to allow lightwell / courtyard / skylight areas deeper within the club floor plate to reduce distances from windows wherever possible.</p> <p>The Panel recommends that the height limit of 32m be observed and that the FSR is adjusted down so that the requirements of the ADG are met. An FSR of 5.88:1 causes too many negative impacts on the surrounding area and the development itself.</p> <p>Further Panel comments on scale and built form include:</p>

Principle	Panel's Comment
	<ul style="list-style-type: none"> - The building depth exceeds the recommended 12-18m from glass to glass. The building appears to be approximately 26m glass to glass. - The loading entry, carpark entry and ventilation grilles facing Gray Street and the large areas of grilles to Ebley Street need some reconsideration to reduce and mediate their impacts. The outdoor gaming area is typically a smoking area and should not discharge directly onto the footpath or in close proximity to a residential balcony (U 206). - The grain of the podium to Ebley Street would benefit from a finer, more vertical expression or some other architectural devices to improve the facade within its context. - There was some discussion about the articulation of the top of the building in relation to the scale proposed, however a reduction in height of 14m to align with the height limit would be the most beneficial outcome for the surrounding area. <p>Planning Comment: This is agreed. The height breach results in unreasonable impacts as a result of the bulk and massing of the building and the resultant streetscape, visual bulk and overshadowing impacts that result.</p>
3. Density	<p>The proposal is presently unacceptable and should be reconsidered to meet DCP, LEP and ADG requirements.</p> <p>There was discussion that more commercial area be provided to assist with FSR. As commercial space is an important part of Bondi Junction the Panel recommends that this be further investigated.</p> <p>Planning Comment: Despite the proposals compliance with the FSR development standard, the proposals breach of the height standard and setback controls provides a development that is contextually inappropriate.</p>
4.Sustainability	<p>The proposal does not meet the requirements of the ADG:</p> <p>In regards to natural cross ventilation, the Panel roughly calculates that approximately 39% of the apartments within the first 9 storeys comply.</p> <p>The solar analysis needs to be clarified to include the shading devices on the east and west. Is winter sun achieved to the south-east and south-west units if the shades are fixed and angled to the south?</p> <p>Solar exposure to the facade - Double glazing reduces conduction and convection but not radiation. Facades exposed to sun during warm weather (including the southern facade) need to be shaded appropriate to orientation. Curtain wall systems are a major problem with residential buildings. The system leads to areas of fixed glass panels and regardless of how the glass is specified, leads to overheating when the glass is in the direct sun. The best answer for residential - whether low, mid or high-rise - is to keep the sun off the facade through external sunshading. The north elevation can have too much heat load during the mid seasons as well as summer.</p>

Principle	Panel's Comment
	<p>Further air movement is important for human comfort. The area of unobstructed window openings should be equal to at least 5% of the floor area served. Any obstruction such as insect or security screens need to be included in the calculation.</p> <p>Natural ventilation and light to common circulation spaces will also need to be improved as discussed at the review. The diagram in the ADG clearly shows windows are also needed for the long and doglegged circulation spaces (Figure 4F.7). Too few windows are provided and the external architectural fins further reduce their effectiveness. The Level 1 residential lobby does not comply to natural light and air requirements.</p> <p>Planning comment: The applicant in their email of 4 May 2018 advised that they would consider revising the floor plate and reducing the number of apartments to achieve ADG compliance. This still does not address the height, built form and envelope proposed.</p>
5. Landscape	<p>Generally the approach to landscaping is acceptable and the street planting is to be commended. It would be beneficial if more areas of landscaping could be identified in and around the building. The club building could benefit from more small courtyard landscaped areas as noted above.</p> <p>The Panel does not agree with the lack of deep soil areas however in this case could be acceptable, given that the southern edge of the site is dedicated to Council and street trees are included in the design.</p> <p>Provision of the generous roof terrace was commended, but there should also be consideration of accessible amenities and change areas for residents and visitors using the pool.</p> <p>Planning comment: Agreed.</p>
6. Amenity	<p>The lack of good environmental control for the apartment designs and the reliance on air conditioning in order to create comfort is unacceptable.</p> <p>4F of the ADG stipulates that the maximum number of apartments sharing a circulation core is eight, although where that design criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level</p> <p>Extra shadow impacts on public space and visual impacts to the surrounding heritage area need to be minimised.</p> <p>Planning comment: This is agreed. The extent of shadow impacts is unacceptable.</p>
7. Safety	<p>The BCA, traffic and fire engineering reports have not been provided for review. The extent of external works such as footpaths, Gray Street, crossovers, etc. will need to be reviewed by Council.</p> <p>The need for good passive surveillance has been addressed in the design.</p>

Principle	Panel's Comment
	Planning Comment: It is proposed to provide the substation beneath the footpath area to Ebley Street. It's proposed location is not supported by Council's Engineers (as detailed later in report). Notwithstanding this, the substation requires adequate safety measures to be implemented in regards to accessing this substation which can be addressed by conditions of consent. Conflict between pedestrians and vehicles at the Gray Street crossover needs to be addressed.
8. Housing Diversity and Social Interaction	The range of units and provision of common outdoor space appear acceptable. The continued use as an RSL club is considered an important part of the local social interaction and history. Planning Comment: No further comment in this regard.
9. Aesthetics	The Panel considered that the overall aesthetics of the proposal was thoughtful and the materials proposed would be durable and aesthetically pleasing, however the building articulation and environmental performance do not meet ADG or design excellence criteria. The expression of the podium could be considered more in relation to its context. As the facades are predominantly glazed, consideration for introduction of spandrels at lower levels could help transition from the more solid podium expression. This would also help minimise visual impacts if furniture is pushed up against glazing. On Ebley Street, the transition from the new podium to the retained heritage façade would be improved by the introduction of a solid section of wall at the transition. Planning Comment: Agreed.

The comments and recommendations provided by the Design Excellence 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 podium setback 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 Design Excellence Panel also raised concerns regarding the internal planning and layout of the building specifically the layout/orientation of individual apartments. The Panel is not convinced that adequate internal amenity (solar access, natural ventilation and privacy) will be achieved for individual apartments.

Clause 6A Development control plans cannot be inconsistent with Apartment Design Guide

Clause 6A of SEPP 65 requires that DCP's cannot be inconsistent with the Apartment Design Guide (ADG) in respect of the following:

- (a) visual privacy,
- (b) solar and daylight access,
- (c) common circulation and spaces,
- (d) apartment size and layout,
- (e) ceiling heights,
- (f) private open space and balconies,

- (g) natural ventilation,
- (h) storage.

If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. WDCP 2012 contains provisions in relation to the above criteria and as such, these provisions of the WDCP no longer have effect. An assessment against the provisions within the ADG is provided in the table below and these controls have been deleted from the WDCP table as they are no longer relevant.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment
3F Visual privacy		
<ul style="list-style-type: none"> Min separation distances from side boundaries – Up to 12m (4 storeys) – 6m (or 3m non-habitable) – Up to 25m (5-8 storeys) – 9m (or 3m non-habitable) – Over 25m (9+ storeys) – 12m (or 6m non habitable) 	<p>No</p> <p>No</p>	<p>The podium has predominantly no setback to the boundaries, following the urban design guidance of the DCP.</p> <p>The tower form does not comply with the setback from the side and rear boundaries.</p>
3G Pedestrian access and entries		
<ul style="list-style-type: none"> Building entries should be clearly identifiable and communal entries clearly distinguishable from private 	Yes	The main pedestrian access to the apartments is from Gray Street via a legible door fronting the street. Separate entries are also proposed to the retail tenancies and RSL fronting Bronte Road.
3H Vehicle Access		
<ul style="list-style-type: none"> Integrated into the building's façade Located on secondary streets or lanes 	Yes	Vehicular access provided from Gray Street
3J Bicycle and Car Parking		
<p>The applicable minimum car parking rates are as follows (using RMS Guide):</p> <ul style="list-style-type: none"> 0.4 spaces per one bedroom unit 0.7 spaces per 2 bedroom unit 1.2 spaces per 3 bedroom unit 1 visitor space per seven units Total 77 residential spaces and 18 visitor spaces req. 	Yes	<p>Basement parking provides for 172 car spaces including;</p> <ul style="list-style-type: none"> 122 residential spaces (including 14 accessible spaces, 1 car wash bay and 1 service bay) 25 visitor spaces
Bicycle: Refer to WDCP below	Yes	153 bicycle spaces

4A Solar and daylight access		
<ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	Yes	78% of units receive at least 2 hours mid-winter.
	No	24% of the apartments receive no sunlight between 9am and 3pm at midwinter, which does not comply with the control.
4B Natural ventilation		
<ul style="list-style-type: none"> All habitable rooms are naturally ventilated 	Yes	All habitable rooms are provided with at least one window for natural ventilation. However, the type or extent of the window operation is not clear on the plans with the exception of the awning windows.
<ul style="list-style-type: none"> Layout of single aspect apartments to maximise natural ventilation 	Yes	Layout of some of the single aspect apartments provide unacceptable internal amenity impacts in terms of ventilation.
<ul style="list-style-type: none"> 60% units within the first 9 storeys to be cross ventilated 	No	The applicant's figures indicate that in the first 9 storeys, 63% of the units are cross ventilated, but this includes the single aspect units which are not considered to be adequately cross ventilated. When those are excluded from the calculations the development does not comply with the standard, being only 39%
4C Ceiling heights		
<ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m 	Yes	The building provides a 2.7m floor to ceiling height, however a detailed section of each typical apartment should be provided to demonstrate compliance with this control.
<ul style="list-style-type: none"> Ceiling heights contribute to the flexibility of building use over the life of the building. 	No	More generous floor to ceiling heights have not been accommodated in level 1 of the podium level to provide flexibility and for future conversion for non-residential uses as required by the guide. Ceiling height to this level is also unclear.
4D Apartment size and layout		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> 1 Bed = 50 m² 2 Bed = 70 m² 3 Bed = 90 m² Add 5m² for each additional bathroom (above 1) <p>Other controls:</p>	Yes	Apartments meet the minimum requirements.

<ul style="list-style-type: none"> • Rooms must have a window 10% of the floor area • Room depths max 2.5 x ceiling height • Bedrooms 9m² or 10m² depending on master or not • Width of living rooms 	No details provided	<p>Although the apartments comply with minimum sizes, no dimensions have been provided on the plans to demonstrate that the room dimensions comply with the following requirements;</p> <ul style="list-style-type: none"> • minimum glazed area to each habitable room. • Bedroom dimensions and area. • Robe dimensions.
4E Private open space and balconies		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth 	Partial compliance	Two bedroom unit 07 on levels 3-8 and 06 on Levels 9-11 have primary balcony at 9m ²
4F Common circulation and spaces		
<ul style="list-style-type: none"> • Max of 8 units accessed off a circulation core on a single level • Maximum 40 units sharing a single lift 	No	Up to 12 units accessed off a circulation core on a single level
	No	The building has 124 apartments and there are two lifts proposed which is insufficient for resident convenience.
4G Storage		
<p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³ 	Insufficient details provided	The architectural design report states that each apartment will achieve adequate storage depending on their type, however the details have not been shown on the floor plans, or in the basement plans to verify that the plans reflect what is noted in the design report.
4K Apartment mix		
	Yes	The proposed development has a mix of one, two and three bedroom apartments that will support a variety of household types and sizes.
4M Facades		
	No	Inadequate articulation to building facades contributes to visual bulk and massing
4N Roof design		
<ul style="list-style-type: none"> • Relates to the street • Breaking down massing of the roof • Roof design proportionate to building bulk • Service elements integrated 	Yes	Notwithstanding the height breach, the stepping form of the roof is an appropriate design response to break up the massing at these levels.
4O Landscape design and 4P Planting on structures		
	Yes	The proposal incorporates landscaping to common area at Level 12 and to terraces at Level 2. Street tree planting is also proposed.

3.1.6 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The Bondi Junction Centre is captured by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP) as it is part of land identified within the edged heavy black borders on the Sydney Harbour Catchment Map referred to in clause 3(1) of the SREP. The SREP is a deemed SEPP, and therefore, the matters for consideration under Division 2 of Part 3 of the SREP apply to the assessment of the application.

Given the site is separated by a substantial distance from the immediate foreshores and waterways of Sydney Harbour, the proposed development has no effect on the following matters set out in clauses 21 to 24 and 26 and 27 of the SREP:

- biodiversity, ecology and environment protection
- public access to, and use of, foreshores and waterways
- maintenance of a working harbour
- interrelationship of waterway and foreshore uses
- maintenance, protection and enhancement of views
- boat storage facilities.

The proposed development will be partially visible from the foreshores and waterways of Sydney Harbour and therefore clause 25 of the SREP are to be taken into consideration in the assessment of the application. The majority of the proposed development is obscured by the existing towers at the northern side of the Bondi Junction Centre including the Westfield Towers. In this regard, the proposed development is expected to have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries.

3.1.7 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 3: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	No	The proposal is not considered to satisfy the aims of the plan, in particular Part 1.2(d) which aims to provide an appropriate transition in building scale around the edge of the commercial centres to protect the amenity of surrounding residential areas,
Part 2 Permitted or prohibited development		
Land Use Table - B4 Mixed Use Zone Zone objectives <ul style="list-style-type: none">• To provide a mixture of compatible land uses.• To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport	Yes	The proposal is defined as shop top housing which is permitted with consent in the zone.

Provision	Compliance	Comment
patronage and encourage walking and cycling. • To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.		
2.7 Demolition	Yes	Proposed to partially demolish the existing buildings. Permitted with consent
Part 4 Principal development standards		
4.3 Height of buildings • 32m	No	45.5m proposed – 13.5m or 42% over control (see discussion below)
4.4 Floor space ratio • 6:1 • Site Area: 2,180m ² • Permissible GFA: 13,080m ²	Yes	Proposed GFA: 12,807m ² Proposed FSR: 5.88:1
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage Conservation	Partial	The subject sites at 28-42 Bronte Road are listed heritage items under WLEP 2012 for their façade significance. Accordingly the provisions of clause 5.10 are applicable to the proposed development. See discussion below.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	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. The proposal provides for earthworks associated to the basement levels. The application is accompanied by a geotechnical investigation report. The application is considered to address the provisions of clause 6.2 Earthworks.

Provision	Compliance	Comment
6.5 Active street frontages in the Bondi Junction Centre	Yes	The proposal is consistent with the objectives of the Waverley LEP 2012

The following is a detailed discussion of the variations sought to the Height development standard in the WLEP 2012.

Exceptions to Development Standards

Council is able to grant consent to a development that contravenes a development standard of WLEP 2012 having regard to the provisions of clause 4.6 of WLEP 2012 and considering a written request by an applicant to vary such development standard. The heads of consideration under clause 4.6 of WLEP 2012 for a development varying a development standard are as follows:

- *Clause 4.6(3)(a) - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*
- *Clause 4.6(3)(b) - that there are sufficient environmental planning grounds to justify contravening the development standard*
- *Clause 4.6(4)(a)(ii) - the proposed development will be in the public interest because it is consistent with objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.*
- *Clause 4.6(5)(a) - whether contravention of the development standard raises any matter of significance for State or regional environmental planning*
- *Clause 4.6(5)(b) - the public benefit of maintaining the development standard*
- *Clause 4.6(5)(c) – other relevant matters.*

Clause 4.3 Height of buildings

The proposal has an overall building height of 45.5m, which exceeds the height of buildings development standard of 32m prescribed under clause 4.3 of Waverley LEP 2012 by 13.5m or 42%.

In their submission, the applicant provides the following justification to the variation:

- *The proposed development demonstrates consistency with both the height of building development standard and the objectives of the B4 – Mixed Use zone, delivering an effective redevelopment of the site, which is appropriate given its strategic location. The preservation of the amenity for nearby residents remains a key consideration.*
- *At a high level, it is important to consider that if the height of building standard is strictly applied on this site, the objectives of the FSR standard will not be met, as this key site will be significantly underutilised in a manner that is inconsistent with the planned density for the site.*
- *A comprehensive solar access analysis has been undertaken, as provided in the Architectural Design Statement for the project, with the shadow attributed to the component above the height standard identified. This demonstrates that there is limited adverse solar impact associated with the additional height.*
- *The Bondi Junction Centre is a Strategic Centre that is envisaged for high density development with tall tower forms. The co-location of services, amenities and access to public transport has encouraged development which optimises the development opportunities on each site. As a result, extensive sunlight for all residents is unreasonable, as the continued intensification of the centre will naturally have an impact on the solar access achieved by all buildings.*

- *The proposal has been specifically designed to minimise the loss of solar access to properties to the south. Development on Levels 12 and 13 have been sited to the north, in order to minimise shadow impacts to these properties and to provide the best outcome for the site and surrounds. It is considered the proposed configuration is the most ideal approach to the redevelopment of the site, with the smallest possible cumulative impact on the properties to the south-west.*
- *The two properties that arguably receive the greatest shadow impact from the proposed development do have further development potential for increased height and a range of uses not limited to solely residential.*
- *Floor Space Ratio –The proposed development is consistent and achieves an effective realisation of the maximum FSR for the site. A development consistent with the LEP height control of 32m would result in a significant reduction in the potential floor space - contrary to the objectives of Cl 4.4, ensuring sufficient floor spaces can be accommodated within the Centre to meet foreseeable future needs.*
- *High level of consistency with Waverley Development Control Plan 2012 – the proposed development demonstrates a high level of consistency with the DCP. Where minor variations to numerical standards are proposed, consistency with the relevant objectives have been demonstrated.*
- *High level of compliance with the requirements set out in the Apartment Design Guide – the proposed development demonstrates a high level of consistency with the Apartment Design Guide. Where minor variations to numerical standards are proposed, consistency with the relevant objectives have been demonstrated.*
- *Amenity for residents – the proposed development, incorporating a roof-top pool, delivers a level of additional amenity opportunity for residents not commonly offer in developments in Bondi Junction – appealing to wide household demographic and encouraging active living.*
- *Strict compliance would lead to an inferior residential amenity and underdevelopment of a strategic and valuable site in the centre and therefore the proposed massing solution is regarded as an appropriate contextual response to the character of the site.*
- *The proposal will deliver the following positive benefits:*
 - *Removal of a driveway crossing on Ebley Street- that will improve pedestrian safety and street activation and amenity;*
 - *A new purpose-built club facility designed to better service the local community and create improved street activation to each street frontage;*
 - *Ensuring the future financial sustainability of the club;*
 - *New housing stock to meet the Central District Plan housing targets and the provision of new active retail tenancies which will further the offer in Bondi Junction;*
 - *Increased housing stock within close proximity to public transport and public amenity;*
 - *Provision of high quality communal facilities (comprising roof top space and swimming pool) that will appeal to a wide demographic and enable the site to meet a key desirable recreation pursuit;*
 - *Retention of important heritage fabric in a sensitive and appropriate manner as recommended by John Oultram Heritage.*

Council's response:

The consent authority must not accept a variation under Clause 4.6 unless the applicant has adequately addressed subclause (3) and must also consider whether the proposal will be in the public interest because it is consistent with objectives of the development standard and applicable zone (subclause (4)).

It is argued by the applicant that the height non-compliance occurs due to a number of site constraints including the existing heritage items, a covenant area along the southern boundary and the need to accommodate a similar scale of club operations to that existing on the site. The applicant goes on to argue that the amenity impacts that result are acceptable. The applicant's diagram below

demonstrates the extent of the height non-compliance, as described in the Clause 4.6 submission (refer to Figure 5).

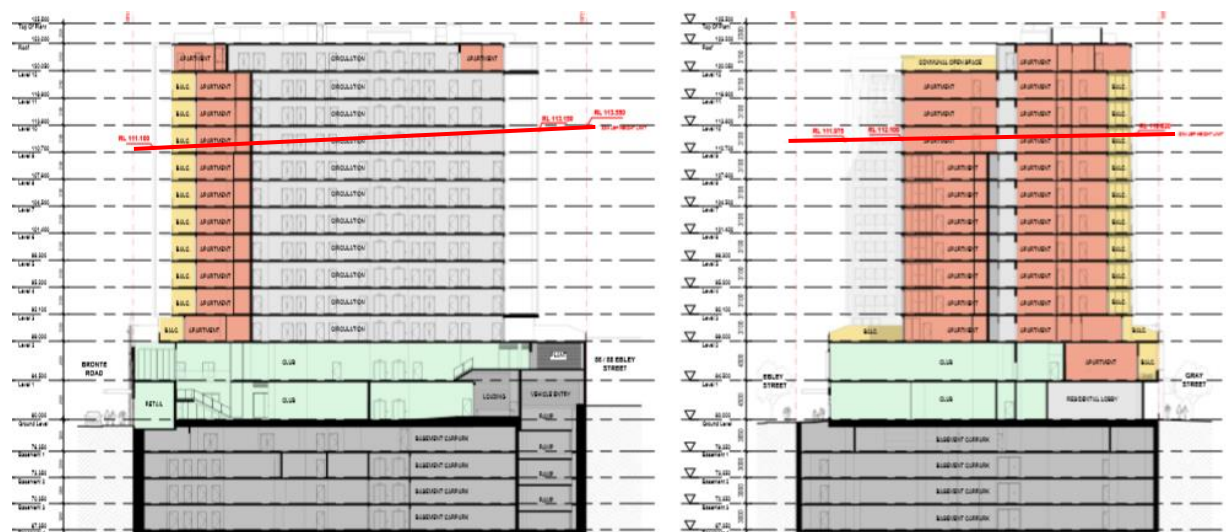


Figure 5: Sections through the building showing height non-compliance (identified with red line)

The proposed maximum building height will significantly breach the height, bulk and scale of the surrounding buildings and streetscape. The building height and form will dominate Bronte Road, Ebley and Gray Streets, resulting in an imposing building which will diminish the significance of the heritage items and dominate views of Ebley Street from adjacent heritage conservation areas. The proposal results in unreasonable shadow impacts on these areas.

The 32m height limit preserves the current and desired future character of the area. The proposed development seeks to exceed the 32m height control as evident in Figure 5. 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 32m maximum building height, and this is the consistent character of this area which seeks to provide a suitable transition between the Bondi junction core and the adjacent lower density residential areas to the east, south-east and south west of the subject site.

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.

It is acknowledged that the proposal seeks to retain and upgrade the existing Bondi Junction Club RSL, which is a positive element for the community in the sites redevelopment. This however, is insufficient reasoning or justification for support of the non-compliant scheme.

The proposed height noncompliance has failed to address clause 4.6 (1)(b), (3)(a) and (b), and (4)(a). The proposed height non-compliance 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 is not in the public interest.

Bondi Junction has recently experienced a significant uplift in development potential following extensive studies, analysis and community consultation, culminating in the WLEP 2012. The purpose

of development standards are to stipulate the maximum development potential of a site and provide certainty to the public and facilitate economic and orderly use of land. The height control is a development standard in WLEP which has been through a statutory process involving exhibition and public comment. The height control reflects the preferences of the locality and the community and the height control should be given a significant deal of weight. In this regard, an applicant should not rely solely on the FSR development standards whilst disregarding the building height development standards when designing development. The two must be considered hand in hand and it is not an 'as of right' that all sites will achieve their FSR *maximum* for each site that is developed.

Council disagrees with the applicant in that the proposal, despite the non-compliance, would achieve the objectives of the zone, and the development standard, and the proposal does not present a more superior planning outcome for the site. As such the clause 4.6 exception is not considered to be well founded and the variation to the height control is not supported.

Heritage Conservation

The sites identified as 28-42 Bronte Road are listed as Heritage items (Façade only) under WLEP (No I171). It is proposed to retain the facades to 28-36 Bronte Road but demolish the facades and building at 38-42 Bronte Road. A Heritage Impact Statement prepared by John Oultram Heritage and Design, has been submitted with the development application. Council's Heritage Adviser states that further design work is required in regards to the façade retention and treatment (comments provided later in report in 'Referrals' section) but raised no objection to the demolition of the façade and building at 38-42 Bronte Road.

It is also noted that to the south-east of the site on the opposite side of Ebley Street is the Botany Street Heritage Conservation Area (C3) and to the south-west is the Mill Hill Heritage Conservation Area (C12). The shadow impacts on these areas is considered to be unacceptable and this is further discussed below under 4.1.2 under the heading "Overshadowing".

3.1.8 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

Despite the failure to address Clause 4.6 of the WLEP, the relevant matters to be considered under the Waverley DCP 2012 are outlined below:

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	See comments under Referral's section
2. Energy and water conservation	Partial	A "Thermal Comfort & BASIX Assessment" report was submitted by the applicant which has been developed by Efficient Living Pty Ltd. The report identifies that not all units satisfy thermal comfort targets and recommended actions are provided. The applicant is required to submit an Energy Assessment Report prior to Construction Certificate should the DA be approved.
6. Stormwater	No	The proposal is unsatisfactory with regard to stormwater. This matter can be addressed as a condition of consent.

Development Control	Compliance	Comment
<p>7. Accessibility and adaptability</p> <ul style="list-style-type: none"> Must comply with DDA 1992, the relevant Australian Standards and the BCA. 10% of the development to be adaptable and certified 	Yes	<p>An access report prepared by Accessible Building Solutions was submitted which concludes that the proposal can achieve compliance with the access provisions of the BCA, SEPP 65 and the essential requirements of AS4299 – Adaptable Housing.</p> <p>The proposed shop top housing development has incorporated accessibility and adaptability facilities including accessible car spaces, lifts, and adaptable accessible units.</p>
<p>8. Transport</p> <p><u>Car parking – Parking Zone 1</u> 0.6 spaces per 1 bed 0.9 spaces per 2 bed 1.4 spaces per 3 bed</p> <p>124 residential units: • 52 x 1 bedroom units = 31.2 • 61 x 2 bedroom units = 54.9 • 11 x 3 bedroom units = 15.4 Total = 102 1 per 5 units for visitors</p> <p>Retail 2 per 100m² • Retail Space: 200m² • Club: 2,084m²</p> <p><u>Bicycle Parking</u> 1 space per unit 1 visitor space per 10 units 1 per 150m² of commercial/retail GFA Total = 151 spaces</p> <p><u>Motorcycle Parking</u> 3 per every 15 car spaces</p> <p><u>Loading Bay</u> 1 required for over 50 dwellings 1 per 400m² GFA (Retail)</p>	<p>No (above maximum)</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p>	<p>Basement parking provides for 172 car spaces including;</p> <ul style="list-style-type: none"> 122 residential spaces (including 14 accessible spaces, 1 car wash bay and 1 service bay) (77 required for SEPP, 102 required for DCP) 25 visitor spaces – (18 required for SEPP, 25 required for DCP) 22 RSL spaces and retail parking spaces (46 maximum required for DCP) <p>The proposal involves allocation above maximum under WDCP to residential units. Reallocation of spaces to retail use would be required in order for proposed car parking not to be included in GFA calculation.</p> <p>153 bicycle spaces</p> <p>35 motorcycle spaces</p> <p>One loading bay is provided to the residential units and Club/ retail uses. The applicant advises that this area has also been designed to accommodate Council's garbage trucks (medium rigid vehicle), however Council's Engineers advise the height to be insufficient for Council's waste collection vehicles.</p>

Development Control	Compliance	Comment
<u>Urban Design</u> <u>Traffic & Transport Management Plan</u> Required for over 15 units <u>Car Share</u> 1 for every 90 dwellings	Yes Yes	The proposal follows the urban design guidance of the DCP with the vehicle entrance to the Gray Street (secondary street) side. The traffic report states that net traffic volumes can be readily accommodated by the surrounding road network (asongroup Traffic Impact Assessment Report dated 11 December 2017) The development will provide 3 car share spaces.
10. Safety Design and management of the built environment to reduce the opportunity for crime.	Yes	Satisfactory. Statement against CPTED principles has been provided.
11. Public art Public Art is encouraged to enhance the LGA.	Yes	Proposed within paving to footpath surrounding site. Further design resolution is required which can be addressed as condition of consent should DA be approved.

Table 5: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

Development Control	Compliance	Comment
2.2 Site, Scale and Frontage		
	No	The proposed development provides a non-compliant height and setbacks. The proposed development is contrary to Part 2.2 objectives (a) and (c), as the site is inadequate to accommodate the non-compliant height and setbacks resulting in an inappropriate building form when viewed from the streetscape.
2.3 Height		
The maximum building height is as set by Clause 4.3 of the WLEP 2012 and the Height of Buildings Map.	No	The proposed shop top housing development has a non-compliant maximum height of 45.5 metres.
2.4 Excavation		
• No fill to raise levels	Yes	The proposed excavation and basement levels do not unreasonably raise existing ground levels and the proposal is accompanied by a geo-technical engineers report.
• Minimum setback of 1.5m from side boundaries	No	
• Under building footprint except main access ramp	Yes	
• Basements no more than 1.2m out of the ground	Yes	
	Yes	

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Geotechnical report required when > 3m in depth or 25% slope 		
2.5 Setbacks – Superseded by Urban Design controls in Part E1.		
2.6 Length and depth of buildings		
<ul style="list-style-type: none"> Max building length: 24m 	No	Greater than 24m proposed. Limited articulation
<ul style="list-style-type: none"> Max unit depth: 18m 	Yes	The units are no deeper than 18m providing sufficient amenity
<ul style="list-style-type: none"> Max depth of single aspect unit: 8m 	No	The depth of some of the single aspect apartments are greater than 8m.
2.7 Building separation		
<p>Up to 4 storeys (12m)</p> <ul style="list-style-type: none"> 12m btw habitable rooms 9m btw habitable rooms & non habitable rooms 6m btw non-habitable rooms <p>5-8 storeys (12m)</p> <ul style="list-style-type: none"> 12m btw habitable rooms 9m btw habitable rooms & non habitable rooms 6m btw non-habitable rooms <p>9+ storeys- over 25m</p> <ul style="list-style-type: none"> 24m btw habitable rooms 18m btw habitable rooms & non habitable rooms 12m btw non-habitable rooms 	No	<p>The controls in the DCP align with the guidance of the ADG. The purpose of the controls is to ensure that there is appropriate massing and spaces between buildings, assist in providing residential amenity, privacy, ventilation, sunlight and daylight access and outlook.</p> <p>As the subject site has three street frontages, these controls result in non-compliance at the eastern boundary. The distance separation provided to the adjoining eastern property is considered insufficient notwithstanding that this site is not yet developed. The applicant has provided an analysis of the future development of the adjoining site to the east which concluded that it is unlikely that the site would be developed above 5 storeys. Given that planning outcomes are not based on assumptions, and the applicant themselves have not abided by the height control applicable to the site, the potential future development of adjoining sites could very well vary from the applicant's conclusions.</p> <p>Notwithstanding above, the non-compliant setback proposed would place a constraint on the future development of this adjoining site.</p>
2.8 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape 	No	The proposed building fails to address the provisions of Part C2 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 are also deficient failing to contribute to and enhance the overall appearance of the building
<ul style="list-style-type: none"> Sympathetic external finishes 	No	

Development Control	Compliance	Comment
		with the building presenting as commercial in appearance.
2.11 Vehicular access and parking		
<ul style="list-style-type: none">Integrated into the design	Yes	The basement car parking area is accessed through the ground level and integrated into the design of the podium.
<ul style="list-style-type: none">Secondary to pedestrian entrance	Yes	The vehicle entrance is separate to the main residential pedestrian and commercial entrances.
<ul style="list-style-type: none">Maximum of 1 x 2-way driveway	Yes	One consolidated driveway is proposed from Gray Street, which incorporates two way access to the basement car park and a driveway to the loading facility and waste area with turntable
<ul style="list-style-type: none">From secondary streets or lanes	Yes	Concerns are raised with the width of the crossover to Gray Street and the conflict with pedestrians on Gray Street. It is unclear whether there is sufficient sight lines for pedestrians walking along the footway, therefore this would need to be addressed.
<ul style="list-style-type: none">Pedestrian safety	Unclear	
2.12 Pedestrian access and entry		
<ul style="list-style-type: none">Entry at street level	Yes	There are no issues with the location of the residential lobby to Gray Street.
<ul style="list-style-type: none">Accessible entry	Yes	
<ul style="list-style-type: none">Legible, safe, well-lit	Yes	
2.13 Landscaping		
<ul style="list-style-type: none">Minimum of 30% of site area landscaped.50% of the above is to be deep soil.	Yes	The ADG requires that 7% of the site shall be provided as deep soil zones. The building footprint controls in part E1 of the DCP do not support the requirements for deep soil planting. A landscaped common open space is provided on Level 12 and the applicant is willing to provide street trees which adequately addresses the objectives of the controls.
2.14 Communal open space		
<ul style="list-style-type: none">The ADG (section 3D) requires 25% of the site area to be nominated as communal open space	Yes	550m ² has been provided for communal open space which is 25.3% of the site area, complying with the ADG.
<ul style="list-style-type: none">Minimum 50% of communal area must receive 2 hrs of sun in the ADG and 3 hrs in the DCP.	Yes	More than 2 hours of sunlight will be received.
<ul style="list-style-type: none">Accessible	Yes	The common space is accessible by lift.
2.15 Private open space- Superseded by the ADG		
2.16 Solar access and overshadowing		
<ul style="list-style-type: none">Adjoining properties to retain minimum of three hours of sunlight during winter solstice	No	The overshadowing impacts on surrounding allotments are contrary to Part C2 2.16 with unreasonable level of overshadowing generated by the unacceptable building form. Overshadowing arising out of poor design is

Development Control	Compliance	Comment
		unacceptable even if it satisfies numerical guidelines, which in this case it doesn't.
2.17 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss 	No	<p>Submissions regarding view loss have been received from units within the Genoa Building at 80 Ebley Street, Bondi Junction.</p> <p>The proposed development has failed to address the provisions of Part C2 2.17 and the applicant's submission has not addressed view loss impacts from the development at 80 Ebley Street particularly given the proposed height breach.</p> <p>It is acknowledged, however, that an inspection of affected units did not identify the loss of any iconic view but district views over tree tops and roofs are affected.</p>
2.18 Visual privacy and security		
<ul style="list-style-type: none"> Dwellings oriented towards the street Consider CPTED principles Prevent overlooking of more than 50% of private open space of lower level dwellings in same development 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>All dwellings are oriented to the street.</p> <p>Statement and recommendations provided.</p> <p>The balconies of the development have been designed to prevent direct overlooking within the development.</p>
2.19 Apartment size and layout - Superseded by the ADG		
2.20 Ceiling heights - Superseded by the ADG		
2.21 Storage - Superseded by the ADG		
2.22 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	Bedrooms and wet areas, are co-located on common walls, to avoid noise from plumbing and inconsistent uses (living areas away from bedrooms).
2.23 Natural ventilation - Superseded by the ADG		
2.24 Building services		
<ul style="list-style-type: none"> Must have a minimum of 2m setback from the building edge Mail boxes to be provided near the main entrance. 	<p>No</p> <p>Yes</p>	<p>Plant and the lift overrun is proposed on the roof, as is a large area reserved for cooling towers and hot water plant and services.</p> <p>Mail boxes are provided in the ground floor lobby.</p>

Table 6: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Design		
1.1.1 Frontages	Yes	Commercial active frontage to Bronte Road and partial to Ebley Street and Gray Street
1.1.2 Lighting	Yes	Details regarding lighting can be resolved as a condition of consent.
1.1.3 Amenity		
• Incorporate plant rooms and associated facilities required for future use	Yes	No details provided however, adequate space has been allocated
• Internal ventilation shaft	Yes	No details provided however, adequate space has been allocated
• Design of use to consider impact on residential	No	Units located adjoining and above club and retail premises to be suitably designed to address any impacts. If approved, this could be addressed as a condition of consent.
• Plan of management required for licensed premises	Yes	A plan of management has been submitted for the proposed Club
1.2 Noise		
• Submission of an acoustic report	Yes	Noise Impact Assessment Report submitted as part of the development application providing recommendations, which can be addressed should the development be approved.
1.3 Hours of operation		
Mon to Sat: 7am to 11pm Sunday 7am to 10pm	Yes	The RSL intends to continue operating based on current hours of operation. Should the application be approved, a condition should be imposed stipulating the base hours of operation stipulated in Part B4 of the DCP.

Table 7: Waverley DCP 2012 - Part D2 Advertising and Signage Compliance Table

Development Control	Compliance	Comment
2.1 Design and location		
2.1.1 Siting	No	The documentation lists the proposed size and location of signage however details have not been provided on elevations.
2.1.2 Size and proportion	No	Detailed elevations have not been provided.
2.1.3 Advertising	No	No details provided at this stage
2.1.4 Number of signs	Yes	The documentation indicates that eight (8) signs are proposed but no elevations have been provided.
2.2 Site specific controls		
2.2.5 Mixed development buildings	Yes	Signs and structures not permitted above awning
2.2.8 Heritage significant buildings	No details provided	No elevational details have been provided on the signage proposed other than the number

Development Control	Compliance	Comment
<ul style="list-style-type: none"> • Consideration given to architectural qualities • Not conceal or obscure architectural features • Restricted to under awning • No flashing, electronic or illuminated signs 		proposed, sizes and indicative locations. If approval is granted, then conditions can be imposed at that stage.

Table 8: Waverley DCP 2012 - Part D3 Footpath Activity and Seating

Development Control	Compliance	Comment
3.1 Location		
<ul style="list-style-type: none"> • Ensure pedestrian movements are maintained • Safety of vehicular movement • Impact on residential amenity • Improved local amenity and public domain • Consider impacts on natural environment • If adjacent to kerb, minimum setback of 1.5m • Clear of street corners 	No	Conceptually the location of the proposed outdoor dining area is considered appropriate on Gray Street, however, detailed design consultation with Council is required. In this regard, a separate development application is required for the footpath seating should the DA for this development be approved which addresses all of the controls of the DCP relating to footpath seating and dining including the provision of clear pedestrian paths of travel, setback clearances, design of furniture and accessories, and management.

Table 9: Waverley DCP 2012 - Part E1 Bondi Junction Compliance Table

Development Control	Compliance	Comment
1.2 Urban form		
<ul style="list-style-type: none"> • 2/3 storey street wall on Bronte Rd and streets with heritage and 6 storey for remainder • Tower to be setback from street edge by 6m • Slender tower 	No (see discussion below)	<p>The proposal does not follow the key podium height controls, however, given the location of the heritage items fronting Bronte Road and extending around to Gray Street and Ebley Street, extension of the two storey podium to all three frontages is considered to be an appropriate design response.</p> <p>The tower form is not sufficiently setback from the podium and is not slender. Proposed setback from Bronte Road is 2.7m, from Ebley Street is minimum of 2.54m, from Gray Street is 3.1m and from eastern side boundary is 6m.</p>
1.3 Building use		
<ul style="list-style-type: none"> • Primary streets - Ground floor primary streets 	No	It is proposed to provide three residential units at first floor level overlooking Gray Street and

Development Control	Compliance	Comment
<p>used as retail, First floor used for commercial</p> <ul style="list-style-type: none"> • Secondary – ground used for commercial preferably retail • Entries to residential not to take up more than 30% of frontage 		<p>adjoining the club. Although a secondary street, it is recommended that this floor space be amended to commercial. This would also assist to mitigate impacts from a Club use when located in close proximity to residential uses.</p>
1.4 Access and movement		
<p>1.4.2 Vehicular and service access to lots</p> <ul style="list-style-type: none"> • Not occur from Primary streets • Separate and differentiate pedestrian and vehicle access and locate vehicle access a minimum of 3m from pedestrian entrance • No more than one 2-way vehicle access point • Minimise size, quantity and visual intrusion 	<p>Yes</p> <p>Yes</p> <p>No</p> <p>No</p>	<p>The vehicular access to the proposed building is via Gray Street which is the preferred option. Separate pedestrian access proposed located 6m from vehicle access point</p> <p>2 x two way vehicle access points proposed</p> <p>Width of driveway crossover is 12m</p>
1.4.4 On-site parking	Yes	The car parking is contained within 4 basement levels below ground, following the guidance of the DCP.
1.5 Subdivision		
Design of buildings is to interpret the small lot subdivision pattern on street i.e. 6m grid	Yes	The DCP requires the design of the building elevations to interpret the small lot subdivision pattern along the street front. The applicant has sought to achieve this on the Bronte Road frontage through the use of vertical glazing, however the Ebley Street frontage can be improved in appearance.
1.6 Heritage and Buildings of Historic Character		
<p>1.6.1 Buildings of historic character</p> <ul style="list-style-type: none"> • Retain façade for a depth of 2m • Facades sympathetic in vertical and horizontal proportions and alignments • Height to match streetscape proportions and scale of heritage item 	Partial	<p>28-42 Bronte Road are identified as Heritage items (Façade only) under Waverley LEP 2012 (I171). It is proposed to retain the facades to 28-36 Bronte Road. Council's Heritage Adviser states that further design work is required in regards to the façade treatment (comments provided below under 'Referrals').</p> <p>It is also noted that to the south-east of the site on the opposite side of Ebley Street is the Botany Street Conservation Area (C3) and to the south-west is the Mill Hill Conservation Area (C12) (see further discussion below regarding impacts).</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Original façade elements above awning level be retained where possible Compatible materials and positive integration of contemporary materials Awnings to be retained or replaced with similar Uniform tonal distribution of colour <p>1.6.2 Streets with Heritage and Buildings of Historic Character</p> <ul style="list-style-type: none"> New buildings to have 2/3 storey façade to street alignment 	Yes	
1.7 Active street frontages		
<p>Bronte Road and Ebley Street are identified as Primary Shopping Streets</p> <p>Gray Streets is a secondary Shopping Street</p>	Yes in part	Active street frontages have been provided to Bronte Road, and extend around to part of Gray Street and Ebley Street. Vertical glazing is proposed. Extent of crossover to Gray Street is intrusive. Proposed horizontal grilles to Ebley Street/ Bronte Road corner are unacceptable and require redesign
1.8 Street alignment and front setbacks		
<ul style="list-style-type: none"> Buildings are to have front elevations aligned to the street boundary Streets with heritage 2/3 storey then 6m setback Development on all other lots to have 6 storey block edge Tower forms to be setback 6m from podium 	<p>Yes</p> <p>No</p> <p>No</p> <p>No</p>	<p>The tower form is not setback 6m from the podium below. This matter is discussed in the Issues section below.</p>
1.9 Separation		
<ul style="list-style-type: none"> Where neighbouring sites not redeveloped, side setback controls to be used 	See 1.10	
1.10 Side and Rear Boundary Setbacks		
<ul style="list-style-type: none"> Avoid orienting living areas to side boundaries Where windows face side boundaries, setbacks of 9m (primary living areas/ balconies), 4.5m (all other) 	No	Main living/ bedroom room windows to be oriented over eastern side boundary. Only a 6m setback is proposed from this boundary. The adjoining site to the east comprises a two storey commercial development that is yet to be redeveloped.

Development Control	Compliance	Comment
1.11 Building footprint		
Residential tower forms: Dwelling no greater in 8m depth from source of light	No	The general controls which apply to this clause, aim to achieve narrow cross section buildings, providing natural cross ventilation and light to avoid mechanical ventilation. Some single aspect units are deeper than 8m.
1.12 Building orientation		
<ul style="list-style-type: none"> Block edge to address street No blank walls to public streets. 	Yes Yes	
1.13 Number of storeys		
Maximum of 10 Storeys with a 2-6 storey podium/street wall	No	The DCP requires a maximum of 10 storeys for this site, with a block edge/podium of 2/3 storeys on the Bronte Rd/Ebley Street/Gray Street at location of heritage items then 6 storey street wall for the rest. Proposed 2 storey street wall and 11 storeys above totalling 13 storeys.
1.14 View, vista and tree preservation		
Public vistas to be retained	Partial	The view corridor from the public domain down Bronte Road and Ebley Street will be retained, however, reduced tower setback will limit this view.
1.16 Design excellence		
Development consent must not be granted for development to which this Section applies unless the consent authority considers that the development exhibits design excellence.	No	Council's assessment reveals a number of issues with the proposal which results in the building not satisfying the considerations of design excellence. These include the height breach, bulk, massing and modulation of the building and internal apartment design.
1.17 Building elevations		
Facades should be articulated, visually integrated into the building and street as well as functional	No	The massing of the proposed elevations is considered unacceptable with minimal visual relief proposed.
1.18 Awnings and colonnades		
<ul style="list-style-type: none"> Height range of 3.2m - 4.2m To step with topography Be consistent in appearance 	Yes	Awnings are proposed. Detailed design concepts can be addressed by conditions of consent should the development be approved.
1.19 Designing buildings for flexibility		
<ul style="list-style-type: none"> Design building to permit adaptation for other future uses, with 	No	The building fails to provide sufficient floor to ceiling heights at Level 1 which is proposed to accommodate the RSL and residential units. It is unclear as to the changes in levels at this floor as

Development Control	Compliance	Comment
minimal structural and service alteration		limited information has been provided. This level should be redesigned to ensure adequate ceiling heights are provided across the whole level.
1.20 Ceiling heights		
<i>Minimum floor to floor heights:</i> <ul style="list-style-type: none"> Ground floor: 4m First floor: 3.5m 	Yes No	Ground Floor: 4.5m It is unclear as to the changes in height at this level as no detailed section has been provided
1.21 External living areas – Superseded by ADG controls.		
1.22 Wind mitigation		
<ul style="list-style-type: none"> Buildings > 9 storeys, wind tunnel study is required 	Partial	A wind report has been submitted which states that the wind conditions for the majority of the development generally satisfy the desired wind comfort criteria, however, some areas are exposed to unsafe or uncomfortable winds. The report recommends a number of mitigating measures be implemented, however, refers to further design investigation be undertaken for impacts at the south-western corner of the development.
1.23 Reflectivity		
<ul style="list-style-type: none"> Mitigate reflective surfaces to a maximum of 60% of facade surface area above ground level Report required for buildings with high levels of glazing. 	Yes	The Reflectivity Report submitted with the application makes recommendations to reduce solar glare to pedestrians or motorists in the surrounding area, or to occupants of neighbouring buildings.
1.24 Roller shutters		
<ul style="list-style-type: none"> Prohibited on shopfronts 	Yes	Roller shutters are not proposed in the documentation submitted with the DA. This will form a condition of consent should the application be approved.

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

Urban Design and Building Form

Podium

The proposed built form does not align with the area specific planning controls for Bondi Junction contained in Part E1 of the DCP and is contrary to the desired future character of Bondi Junction. The Waverley DCP 2012 requires a 2-3 storey podium along Bronte Road and on streets with heritage significance. While a six storey podium in other streets is required to create a suitably scaled street wall on the subject site. The purpose of the podium controls are to ensure new high density development relates to a human scale streetscape and encourages passive surveillance on all frontages, being a part of the Bondi Junction Centre.

The proposal provides a two storey podium along all frontages. Notwithstanding the non-compliance with the six storey podium control, the Waverley Design Excellence Panel considered that the two storey podium form is *a very good urban and heritage response however the Panel recommends that the remainder of the proposal respects the DCP setbacks and LEP height control*. Further design refinement of the podium is required to address heritage considerations, materiality and articulation. Ventilation grilles facing Gray Street and the large areas of grilles to Ebley Street need reconsideration to reduce and mediate their impacts. The outdoor gaming area is typically a smoking area and should not discharge directly onto the footpath. The grain of the podium to Ebley Street would benefit from a finer, more vertical expression or some other architectural devices to improve the facade within its context.

The layout of the podium level is considered inefficient, with at least 300m² of floor space at the first floor level occupied by plant, including rain water tanks, stormwater detention, hot water plant. These areas do not contribute to calculable floor space, yet contribute to the bulk and massing of the building. The resultant effect allows for calculable floor space instead to be directed to upper levels of the building where return is greater and the tower form is larger than that envisaged in the planning controls.

Given that the proposal provides car parking which maximises the rates stipulated in the RMS Traffic Generating Guidelines, there is no justified reason why these services and plant should not be relocated to the basement level/s of the building where they do not contribute to the building bulk. The inefficient use of the first floor is not supported, the plant facilities should be provided below ground level and real useable commercial space provided instead in the podium.

Tower Form and Setbacks

The Urban Form Controls set out in Part E1 of the DCP require the tower form to be setback from the street edge of the podium by 6m. The proposed setback from Bronte Road is 2.7m, from Ebley Street is a minimum of 2.54m (from covenant boundary line) and 3.1m from Gray Street.

The failure to provide adequate setbacks of the tower from the podium below illustrates that the tower form is disproportionate to the podium, contrary to Waverley DCP control E1 1.2(c) which requires tower forms to be slender.

Slender towers facilitate cross ventilation, provide high quality amenity to occupants of the building, encourage view corridors, provide greater solar access to public spaces and other buildings and clearly differentiate between the podium and tower elements. The proposed tower, by virtue of the failure to comply with the setback controls, is not a slender tower form and the reduced setbacks are not supported.

Furthermore, a 3.66m wide covenant is located at the Ebley Street frontage of the property for the purposes of road widening to Council's benefit. Discussions were held with the applicant regarding the location of the covenant, the location of the proposed substation and basement encroachment of the development. The applicant was advised as part of the Pre-DA advice to allow a 2.7m (floor level) clearance below ground level to facilitate the provision of public utility services.

Instead, the development application proposes the substation within the covenant area directly below footpath level and provides details that other locations are not feasible. The applicant has also submitted a letter from Ausgrid which raises no objection to the proposed location of the substation subject to conditions. The applicant proposes to provide an access hatch and signage

within the footpath covenant area. This matter was reviewed by Council's Engineers and found to be inadequate as further design resolution is required.

Overshadowing

The shadow analysis prepared to assess the impact on solar access to neighbouring properties between 9am and 3pm for the Winter Solstice (June 21) prepared by Group GSA (Architects) and submitted with the development application demonstrates that properties will be impacted. From the analysis, the following is noted (as provided by the applicant):

- *For all 17 identified properties on Brisbane and McKenzie Streets, the properties currently achieve compliance with the DCP (3 hrs) and ADG (2 hrs) recommendations for solar and will continue to achieve compliance with the proposed development proceeding, notwithstanding reductions in solar access at 21 June ranging from 0 to 37 minutes. An appropriate level of amenity preservation is demonstrated for these properties.*
- *95 Ebley Street – Compliance with DCP recommendations is currently achieved and will continue to be achieved. An appropriate level of amenity preservation is demonstrated for this particular property.*
- *99, 103 Ebley Street, 4 Allens Parade – Compliance with DCP recommendations is not currently achieved, however ADG (2hrs) is achieved and will continue to be achieved. An appropriate level of amenity preservation is demonstrated for these particular properties.*
- *2, 6 Allens Parade – the properties currently achieve compliance with both the DCP (3 hrs) and ADG (2 hrs) recommendations for solar and will continue to achieve compliance with the proposed development proceeding. An appropriate level of amenity preservation is demonstrated for these particular properties.*
- *91 Ebley Street – the property currently receives in excess of 3hrs (DCP) and 2 hrs (ADG). A 32m 'compliant' development would result in the ADG recommendations not being achieved in terms of solar access. Similarly, the proposed development results in the ADG recommendations not being achieved.*
- *93 Ebley Street - the property currently receives in excess of 3hrs (DCP) and 2 hrs (ADG). A 32m compliant development would result in the ADG recommendations continuing to be achieved in terms of solar access, however, the proposed development results in the ADG recommendations not being achieved.*

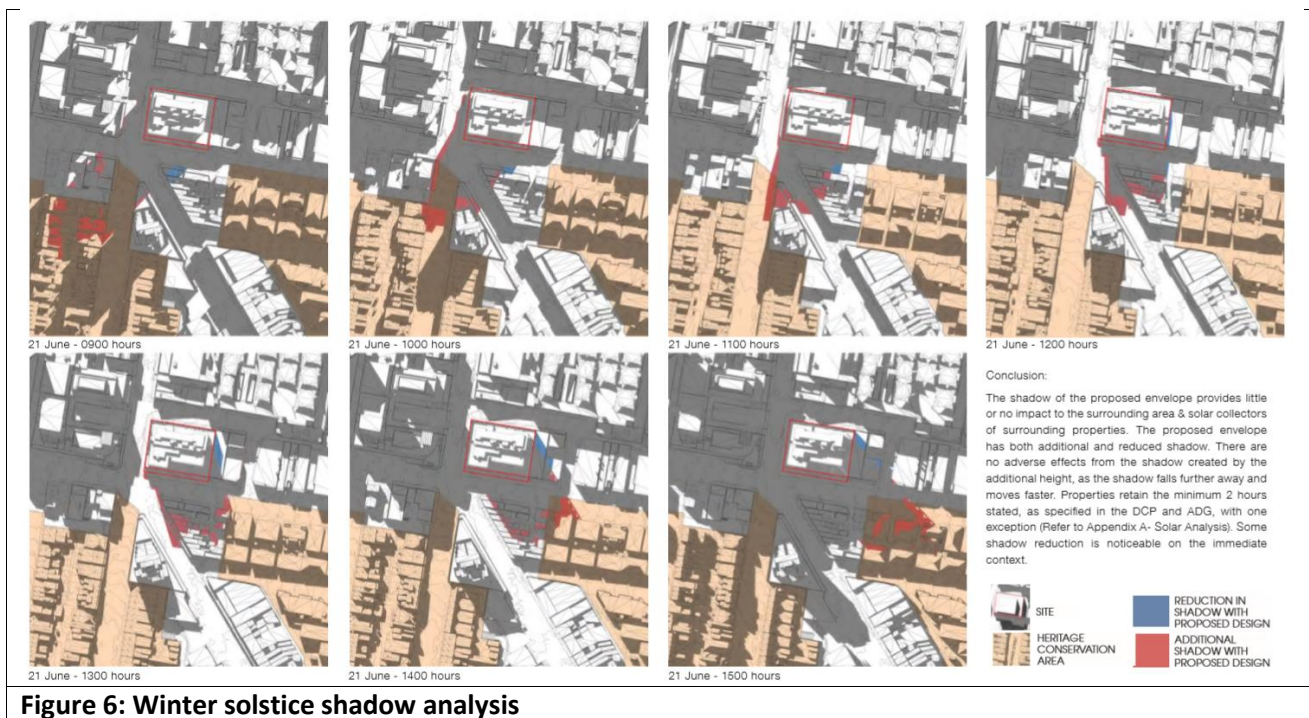


Figure 6: Winter solstice shadow analysis

The proposal will adversely affect the solar access provisions to adjacent properties, particularly those located to the south-west and south-east of the site in the low density residential heritage conservation areas. In particular, the proposed envelope has a substantial impact on solar access to the adjacent properties at 91 and 93 Ebley Street. With the proposed envelope, the mentioned properties would have a minimum of 25 and 60 minutes of solar access, respectively, which is not acceptable.

The density of the site is dictated by the FSR and height controls of the LEP, of which the proposal does not comply with the height control or with the urban form controls of the WDCP. The resultant effect are adverse overshadowing impacts that are a result of the height and setback non-compliances. A complying proposal would not cause this extent of overshadowing. This impact is not considered to be reasonable and is not supported.

Materials, Finishes and Aesthetics

The Design Excellence Panel considered that *the overall aesthetics of the proposal was thoughtful and the materials proposed would be durable and aesthetically pleasing, however the building articulation and environmental performance do not meet ADG or design excellence criteria*. The expression of the podium could be considered more in relation to its context. As the facades are predominantly glazed, consideration for introduction of spandrels at lower levels could help transition from the more solid podium expression. This would also help minimise visual impacts if furniture is pushed up against glazing.

Overall, Council is unconvinced that the proposed aesthetics and streetscape presentation achieve design excellence.

Commercial / Registered Club uses

The proposal seeks 200m² retail space and a registered club (to replace existing BJ RSL) over two levels with a floor area of 2,084m², with a total patron capacity of 400 patrons according to the Statement of Environmental Effects (SEE).

The provision of a new club seeks:

- Bar, restaurant, kitchen and associated back of house,
- new gaming area including an indoor and outdoor facility on the ground floor;
- Two flexible function rooms, bar, dining space and associated kitchen at Level 1;
- Outdoor dining space along Gray Street;
- Retention of current operating hours in accordance with hotel liquor licence: – Sunday – Tuesday: 10am to 10pm; – Wednesday – Saturday: 10am to 11pm.

A draft Plan of Management has also accompanied the application which specifies a patron capacity of 700 patrons (conflicting with the number specified in the SEE).

Overall, limited details have been provided with the application that would typically be required for this type of use. Amenity and noise impacts have only briefly been discussed in the accompanying consultant reports. There are no details on the types or number of functions sought, whether entertainment/amplified noise will be generated (if so, when and how), nor planning consideration given to the impact of indoor and outdoor areas or nearby residential areas.

Further, residential apartments are proposed on level 1 (adjacent to the club, separated by a dividing wall) and level 2 (directly above club use), which raises concern for the future amenity and acoustic impacts of persons residing there. Ideally, there should be a clear distinction between commercial/club uses to those residential components, to address any future amenity issues that often arise between licensed venues and residents.

Therefore, in the absence of detail required to properly assess the commercial and registered club uses for the site, it would be recommended that the 'use' component for these spaces be subject to future applications.

3.2 Other Impacts of the Development

Based on the discussion within this report, the proposal will have a detrimental impact on the locality.

3.3 Suitability of the Site for the Development

The proposal is considered unsuitable for the site for the reasons discussed within this report.

3.4 Any Submissions

The application was notified for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. 51 submissions were received, 27 of which were in support of the proposal which includes Club RSL members that do not reside in the immediate area.

Table 10: Summary of properties which lodged an objection

Property
North Bondi Precinct Committee
16 View Street, Queens Park
33 Bronte Road and 80 Ebley Street, Bondi Junction (Genoa Building) Unit 404, Unit 610, Unit 702, Unit 1106, Unit 1204, Unit 1206, Unit 1407, Unit No. not identified (x 1)
Address withheld (x 6)
2-4 Bronte Road
Strata Managers on behalf of Genoa Apartments at 80 Ebley Street, Bondi Junction
12 Brisbane Street, Bondi Junction
30-34 Penkivil Street, Bondi
52 Lawson Street, Bondi Junction
9/20 Penkivil Street, Bondi
47 Brisbane Street, Bondi Junction
Henrietta Street

Summary of issues of objection:

- Excessive and unacceptable height
- Traffic and car parking impacts
- View loss impacts
- Unreasonable impact on the streetscape
- Proposed building will detract from Bondi Junction and heritage items
- Visual and acoustic privacy impacts
- Noise generation
- Inadequate public transport to accommodate additional residents and visitors
- Proposal impacts on heritage items and heritage conservation area located to the south
- Overshadowing and solar access impacts on neighbouring buildings and the public domain
- Overdevelopment
- Wind impacts
- Impact on property values
- Impact on safety due to increase in anti-social behaviour

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

Issue: Shadowing impacts on Genoa Building and pool

Response: In their DA submission, the applicant has provided shadow impact analysis for the required 9am-3pm winter solstice. This analysis identifies that there will be no shadow impact on the adjacent Genoa building and swimming pool during this period as a result of the development.

Issue: Privacy impacts

Response: Overlooking to other buildings in a high density area is likely, however distance separation, placement and proportion of windows and privacy screening are mechanisms which can deal with direct overlooking in a high density environment. Provided that appropriate distance is provided between buildings, privacy is generally a matter that can be treated through the design treatments

noted above. Notwithstanding this, the distance separation is of concern, and subsequently privacy impacts are greater than a compliant building form would provide.

Issue: Deterioration in amenity and property values

Response: This comment was regular in submissions and is interpreted to be a culmination of all amenity impacts. In a high density environment, it is unreasonable to expect that other undeveloped sites with the same zoning and density development standard will remain undeveloped. Therefore some of the amenities that some apartments in adjoining buildings that are currently enjoyed are not guaranteed forever. The concerns regarding privacy and overlooking can be appropriately mitigated through design.

Council is not supporting this application, however the objectors should have a reasonable expectation that this site will be developed in the future. A building that follows the statutory and DCP planning controls for the site which has acceptable streetscape and amenity impacts is likely to be supported.

Issue: Noise from construction

Response: Noise from construction works is not a matter which would warrant refusal of the application. Should the application be approved, conditions of consent will be imposed regarding noise during construction, including construction hours, and the submission of a noise management plan to ensure that the noise does not exceed the acceptable limits during construction.

Issue: Population density and congestion

Response: The objectors have noted that Bondi Junction has become too dense. The Waverley Local Environmental Plan sets the strategic framework for the local government area. The Bondi Junction Centre is identified for high density development located close to the Bondi Junction bus/rail interchange to achieve the housing targets set by the State Government. This is not a matter which warrants refusal of this particular application.

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 the Bondi Junction Transport Interchange 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: Loss and reduction in Club facilities

Comment: A number of submissions from existing club members raised concerns regarding the reduction in size of the Club and loss of facilities. This matter does not warrant refusal of the application.

3.5 Public Interest

It is considered that the proposal will be against the public interest and should not be supported.

4 REFERRALS

4.1 Urban Design, Shaping Waverley

Council's Coordinator of Urban Design and Heritage has reviewed the proposal provided the following comments:

In its current form the Development Application is **not** supported for the following reasons:

Height Limit, Solar access and overshadowing

The proposed height above the LEP Maximum Building Height control is not supported due to the following adverse impacts:

- *Additional floor above the allowable limit creates overshadowing on the residential dwellings to the south, including heritage conservation areas. Overshadowing beyond a compliant building envelope is not acceptable.*
- *The proposed building is significantly above the LEP Maximum Building Height control of 32 metres, 14.50m on Bronte road, 8.075m on Ebley Street;*
- *Going beyond the maximum number of 10 storeys for this site is unacceptable;*
- *The proposed envelope has a substantial impact on solar access to the adjoining properties in 91, 93 Ebley Street, not complying with the DCP controls. With the proposed envelope, the mentioned properties would have a minimum of 25 and 60 minutes of solar access, respectively, which is not acceptable.*
- *The Waverley DCP (C.9) states that direct sunlight to north facing windows of habitable rooms and all private open space areas of adjacent dwellings should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 21. Not complying with this is not acceptable.*
- *On neighbouring lower density dwellings in 99, 103 and 4 Allens Parade, not compliant with the current solar access, further information on solar impact is needed as any impact on these properties is not acceptable:*
 - *Regarding lower density residential accommodation, the DCP (C1.1) states that, where a variation to floor space ratio, maximum building height, maximum wall height or setback controls causes a reduction in direct sunlight to adjoining properties, any reduction may be considered unacceptable. In case provision of direct sunlight is already below 3 hours, any reduction may be unacceptable.*
 - *As per ADG, where adjoining property does not receive the required hour of solar access, the proposed building ensures solar access to neighbouring properties is not reduced more than 20%.*
- *It is recommended that the building form addresses the referred problems in order to minimise environmental impacts of overshadowing and view loss, but still maintaining residential amenity of residents and achieving a high level of design excellence.*

Street Alignment and Setbacks

The proposed setbacks, which do not comply with the DCP, are not supported due to the following adverse impacts:

- *Developments in streets with heritage are to include a minimum 6 meter setback to build form above the street wall. The proposed development comprises a 2 storey street wall*

incorporating the existing heritage façade in Bronte Road and Gray Street. The proposed built form, with a maximum setback of 2.704 m on Bronte Road and 3.1 m on Gray Street, doesn't comply with the DCP;

- *Tower building forms are to be set back a minimum of 6m from the street wall from the sixth and above floors;*
- *Separation distances between residential living areas and/or commercial uses apply to this site, so it must comply to:*
 - *9m (levels 1 – 5) and 18m (levels 6+) between residential and commercial buildings;*
 - *12m (levels 1 – 5) and 24m (levels 6+) between residential buildings;*
- *It is recommended a building form adjustment in order to comply with the section E of the DCP.*

Tower form and Design

The proposed design, perhaps as a consequence of the above, is bulky and excessively predominant, especially for a site that is viewed on approach to Bondi Junction. The corner of the building on the intersection of Bronte Road and Ebley Street doesn't respond with the heritage façade or with the neighbouring buildings on Ebley Street. In addition, the full story windows will create lack of privacy for residents and excessive view of the inside of the apartments at a street level.

For these reasons, the current tower is not supported and it is recommended that it is revised in order to achieve a high level of design excellence.

Wind mitigation

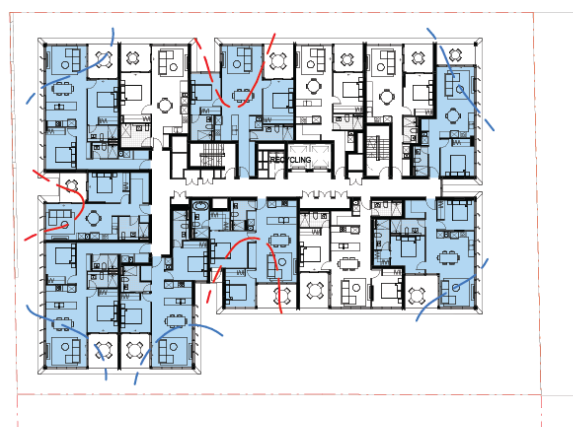
- *According to clause E1.23 of the DCP, buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceed the Acceptable Criteria for Environmental Wind Locations*
- *All recommended actions presented on the Wind Report should be considered in order to mitigate wind impacts*

Cross Ventilation

- *Cross ventilation is achieved by apartments having more than one aspect with direct exposure to the prevailing winds, or windows located in significantly different pressure regions, rather than relying on purely wind driven air (ADG 4B).*
- *The diagrams for Levels 2 and 3 to 8 show 2 and 3 cases that don't abide to the best practice described above (see figure 7). Consequently, the proposed building does not meet the minimum of 60% of apartments within the first 9 storeys with natural cross ventilation.*



Level 2



Level 3 - 8

Figure 7: Cross ventilation diagrams

Apartment Amenity

As per the ADG, the following amendments to the design to improve the amenity of residential dwellings are recommended:

- Reduce the number of apartments per internal circulation space to a maximum of 8 apartments per floor. The current proposal has 12 apartments per floor from 2 to 8 floors and 15 in 9 to 11 floors.
- Articulate the built form to maximise passive ventilation and solar access.

Streetscape

The street activation is encouraged for this development on Gray Street. It is appreciated that the applicant approached the development at a public domain level. It will have positive effects on the streetscape, making it more vibrant, lively and safe. However, it should align with Bondi Junction's Complete Streets, where specific recommendations for the future of Gray Street are mentioned. The following items are not supported:

- The removal of the existing kerb and the insertion of bollards is not supported. Pedestrian priority crossings should be clear for both pedestrians and vehicles, as well as provide a safe separation between pedestrian space and safety. The use of bollards should be minimised in pedestrian crossings. These should align with Waverley's Public Domain Technical Manual.
- According to the DCP E1.4.2, the vehicular access ways should be minimised in size, quantity and visual intrusion, being the preferred width of driveway crossings and car park and service entries of 3m. Greater widths are only acceptable in cases where the applicant demonstrates that it is a necessity, which is not the case, the combined loading and vehicular entrance has a width of 13m.
- Driveway crossings should be reduced. A single (or maximum double) driveway should be located on Gray Street to limit pedestrian and vehicle conflicts. A triple width driveway located on Gray Street will result in poor pedestrian amenity, safety and a large division in active street frontages in this streetscape. On secondary streets, being the case of Gray Street, not more than 15% of the street frontage can have a blank walls or service areas (DCP E1.7). Currently 32% of the street is occupied by serviced areas, which is not acceptable.

- *It is recommended a shared loading and vehicular entrances and further investigation to place the turttable in the first basement floor.*
- *Street activation should allign with what's envisioned in Bondi Junction's Complete Streets for Gray Street.*

4.2 Heritage, Shaping Waverley

The development application was referred to Council's Heritage Adviser who provided the following comments:

- *The applicant's Heritage Report is a thorough and detailed document.*
- *The proposed design incorporates the listed W Stone building facades to the Bronte Road elevation and the return to Grey Street.*
- *Retention of facades is indicated in general form with limited detail as to finishes, signage and likely treatment of open areas behind the facade parapets.*
- *Design development of the central recess behind the retained facade at the centre of the Bronte Road elevation is required. The forward alignment of the new glazed infill above the lower facades detracts from the integrity and apparent depth of the retained facade leaving the original fabric as a thin veneer rather than an integral element of the building in depth. New construction should be set back above the lower facade with a solid return wall to the norther side based on existing side walls to historic shop fronts in Bronte Road and a consistent return treatment provided to the new structure on the south side of the recess.*
- *The street awnings need to be more responsive to historic patterns of awnings. Awnings should incorporate exposed suspension rods and have the outer awning edge segmented in alignment with the differing facades.*
- *Treatment of the window openings to the central lower facade facing Bronte Road is to demonstrate close adherence to historic detail – The proposed opaque glazing should be glazed in a dark tint glass with outer lining based upon historic sash patterns rather than a blank opaque panel.*
- *Colour schemes are to activate the facades and not employ monochromatic treatment serving to ghost the facades.*
- *Lighting of facades is to enhance the form and detail of the retained fabric.*
- *The proposed street tree at the corner of Bronte Road and Grey Street should be set back as not to obscure the view of the return façade looking south along Bronte Road.*

The above matters would be required to be addressed prior to any consent for the development proposed.

4.3 Contamination - Safe Waverley

The application was referred to Council's Environmental Health Officer who provided the following comments:

In considering the requirements of SEPP 55 and the Contaminated Land Management Act, it is believed that a more sensitive use is proposed (residential) and therefore Council must be satisfied that the land is suitable for the proposed use. As no documentation has been submitted to this affected, this section recommends additional information be required.

Recommendation *To address the requirements of SEPP No 55 the hierarchy of assessment may include but not be limited to the following:*

- *Preliminary Environmental Site Assessment (PESA) (Also known as Stage 1)*
- *Detailed Environmental Site assessment (DESA) (Also known as stage 2)*
 - *Remediation Action Plan (RAP)*
 - *Validation Assessment*
 - *Site Audit Statement (SAS)*

The above matters would be required to be addressed prior to any consent for development of the site for residential purposes.

4.4 Traffic, Parking and access – Creating Waverley

The application was referred to Council's Manager, Traffic and Development who provided the following comments:

The plans for the above development have been examined and the application is recommended for REFUSAL.

The grounds for refusal are significant and cannot be remedied by imposing conditions on any approval.

The reasons for refusal are as follows:

1. Encroachment of Structure into Land for Future Road Widening Purposes

There should be no encroachment of any part of the structure into the 3.66m wide strip of land on the Ebley Street frontage required to be dedicated by the applicant to Council as road reserve to cater for the future widening of the Ebley Street road carriageway.

Particular reference is made to the encroachment of basement level 1 which shows fire pump rooms, fire tank rooms, a car park exhaust room and substation transformers being proposed within the ceiling on those rooms incorporated to form Council's future footpath.

The proposal is unacceptable as such a proposal will not allow for the future laying of cables, pipelines etc., by Council and public utility authorities in what is to be the future footpath area.

Access hatches serving private facilities such as those in the rooms indicated above will not be approved in any current or future Council road reserve area.

2. Head Clearances- Loading Bay

The head clearance at the entry to the loading bay area on Gray Street is insufficient to cater for access by Council's waste collection vehicles. The head clearance at all points will need to be increased to a minimum of 3.8m.

GENERAL COMMENTS

• Resident Visitor Parking

It is considered all resident visitor parking, 25 spaces, should be provided on one level and not over several (ie. 3) levels as proposed.

Visitor parking over several levels will result in the unnecessary movements of vehicles as drivers travel between levels seeking parking.

The above matters would be required to be addressed prior to any consent for the development proposed.

4.5 Stormwater – Creating Waverley

Council's Manager, Design has reviewed the proposal and provided the following comments:

The submitted stormwater management plans prepared by Insync Services Pty Ltd, Job No. 20160039, Drawing No. SW-000, SW-101 to SW-112, SW-300 & SW-400 (Issue 2), dated 3 November 2017 have been checked and considered not satisfactory with respect to stormwater details.

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

- *Since the PSD is more than 25 l/s, connection of stormwater disposal system to be made to the council's existing below ground drainage system as per clause 2.2.1, Water Management Technical Manual and details are required.*
- *Details of Council's stormwater pipe and pit are required, e.g. pipe dia, pipe & pit invert level, surface level.*
- *An engineering design of the proposed stormwater line is required including a Hydraulic Grade Line (HGL) analysis of pipe between proposed OSD tank to the Council's stormwater system. The longsection information to include existing services crossing, existing surface levels, pipe invert and obvert levels etc.*
- *Checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.*

The above matters would be required to be addressed prior to any consent for the development proposed.

4.6 Waste disposal and collection and Sustainability – Sustainable Waverley

The Sustainable Waverley Team have reviewed the proposal and provided the following comments:

The applicant's Site Waste Recycling Management Plan (SWRMP) provided is close to acceptable, although the bulky room is not big enough to accommodate 124 residential units, there is no space assigned for milk/bread crate storage, and Council would like the applicant to consider the recommendations below due to the large size of the development.

Council recommends the following actions for the applicant:

1. *Ensure that Council's waste and recycling trucks can access the property for onsite collection. Vehicle dimensions and turning circles are listed in Annexure B1-3 of Waverley Council Development Control Plan 2012.*
2. *Include a dual chute system if possible for the development to accommodate both general waste and co-mingled recycling. This will minimise bin storage on each floor and streamline transport.*
3. *Include compaction systems for both waste and comingled recycling streams if possible to minimise bins required for storage.*
4. *Assume the highest use for waste and recycling rates (for a food premises) to ensure the longevity of the development should any of the commercial tenants change in the future.*

5. *Ensure the bulky waste storage room is large enough to accommodate the 124 residential units. The current proposal has only allowed for a minimal storage of 4m³, which is not sufficient.*
6. *Monitor the waste/recycling bin fullness and adjust the collection frequency where overflows exist.*
7. *An increase in residential bin size to 660L is recommended to minimise the storage space.*
8. *Develop a Building Waste Management Plan that includes roles and responsibilities for tenants, caretakers, including key contacts with contractors, etc.*
9. *Include appropriate signage in the bin room and chute areas so residents and commercial tenants are aware of appropriate waste disposal and recycling practices at the property.*
10. *Ensure the Site Waste Management Plan is onsite at all times and is presented during Council inspections.*

The applicant will also need to ensure that the waste storage area complies with the design requirements as set out in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.

Should composting facilities be provided at this development the applicant can refer to Annexure B1-5 of the Waverley Council Development Control Plan. It is recommended that the plans indicate where the composting facilities will be located.

The applicant will need to ensure that the proposed garbage chute and compactor system complies with all requirements set out in Annexure B1-6.

Additionally, it is recommended that the property has an assigned building manager/caretaker that ensures the conditions in the Building Waste Management Plan are met and that this plan is kept on site at all times for reference purposes and to present this information during environmental compliance inspections. Employment of a building manager/caretaker is vital to the successful management of waste in high-rise developments.

Building managers/Caretakers are needed to manage the regular removal of materials from the interim storage areas and their transfer to the communal storage area; clean waste receptacles and storage areas; keep waste storage areas clean and free of dumped rubbish; keep the area outside the building clean and free of litter; ensure new residents are aware of the waste management arrangements; and liaise with the waste collection contractor.

All roles and responsibilities must be clearly outlined in contracts with cleaners/building managers/caretakers.

The above matters would be required to be addressed prior to any consent for the development proposed.

4.7 Digital Waverley - Land Information and GIS Officer

No objection raised subject to the imposition of standard conditions.

4.8 Strategic Tree Management Officer

The proposal was referred to Council's Strategic Tree Management Officer who raised no objection subject to conditions. Recommended conditions were provided.

5.0 SUMMARY

Based on the discussion above, Council concludes that the proposal does not adequately comply with the provisions of the State Environmental Planning Policy No.65, Waverley LEP 2012 and Waverley DCP 2012, contrary to Section 4.15(1)(a), resulting in unreasonable impacts on the surrounding locality, contrary to Section 4.15(1)(b) and the proposal is therefore unsuitable for the site failing section 4.15(1)(c).

For these reasons, approval of the application is considered to be against the public interest failing Section 4.15(1)(e) and Council recommends that the application be refused for the reasons listed below.

6.0 RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL

That the Development Application be **REFUSED** by the Sydney Eastern City Planning Panel for the following reasons:

1. The proposed development is contrary to the provisions of State Environmental Planning Policy (Building and Sustainability Index) 2004 having regard to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that the Thermal Comfort and BASIX Assessment Report submitted with the development application identifies that not all units satisfy thermal comfort targets and recommended actions have not been implemented in the supporting documents and plans.
2. The proposed development is contrary to the provisions of State Environmental Planning Policy 55 and the Contamination Land Management Act, having regard to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that documentary evidence stating the site will be suitable for the intended use has not been provided.
3. 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 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that:
 - (a) Clause 2 Aim, objectives 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 for future occupants and the wider community.
 - (b) The proposed development is contrary to Part 4 Application of Design Principles, in particular Principles 1 Context and Neighbourhood 2 Built Form and Scale, 3 Density, 4 Sustainability, 6 Amenity and 9 Aesthetics.
4. The proposed development is contrary to the following provisions of the Waverley Local Environmental Plan 2012, having regard to section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that:

- (a) Clause 1.2 Aims of plan subclause (2)(d) as the proposed development fails to provide for an appropriate transition in building scale around the edge of the commercial centres to protect the amenity of surrounding residential areas and Clause 1.2 Aims of plan subclause (2)(g) as the proposal fails to preserve the environmental, natural and built heritage of Waverley.
 - (b) 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 and the locality. The proposed building will result in adverse impacts on the streetscape and amenity of adjoining properties, contrary to objective (c) and (d) of the development standard.
 - (c) 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 standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds that exist to justify the significant breach to the height development standard. The proposed development is contrary to the objectives of the development standard, the proposed height breach is contrary to the zone objectives and the proposal is not in the public interest.
 - (d) Clause 5.10 Heritage Conservation subclause (1)(a) and (b), and (4) as the proposed development will impact on the associated fabric, settings and views of adjacent heritage conservation areas.
5. The proposed development is contrary to the following sections of the Waverley Development Control Plan 2012, having regard to section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979:
- (a) Part B6 – Stormwater and the Waverley Council Water Management Technical Manual with respect to:
 - i. Since the PSD is more than 25 l/s, connection of stormwater disposal system to be made to the council's existing below ground drainage system as per clause 2.2.1, Water Management Technical Manual and details are required.
 - ii. Details of Council's stormwater pipe and pit are required, e.g. pipe dia, pipe & pit invert level, surface level.
 - iii. An engineering design of the proposed stormwater line is required including a Hydraulic Grade Line (HGL) analysis of pipe between proposed OSD tank to the Council's stormwater system. The longsection information to include existing services crossing, existing surface levels, pipe invert and obvert levels etc.
 - iv. Checklist as set out in page 22 of Waverley Council's Water Management Technical Manual is required.
 - (b) Part B8 – Transport with respect to:
 - i. The width of the crossover to Gray Street will create an unacceptable conflict between motorists and pedestrians.
 - (c) Part C2 – Multi unit and multi dwelling housing
 - i. Section 2.8 Building Design and Streetscape, 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 are also deficient failing to contribute to and enhance the overall appearance of the building with the building presenting as commercial in appearance.

- ii. Section 2.16 Solar Access and Overshadowing in that the proposal results in unacceptable overshadowing impacts on surrounding allotments with unreasonable level of overshadowing generated by the unacceptable building form. Overshadowing arising out of poor design is unacceptable even if it satisfies numerical guidelines, which in this case it doesn't.
- iii. Section 2.17 Views and View Sharing, in that the proposal has not addressed view loss impacts from the development at 80 Ebley Street particularly given the proposed height breach.

(d) Part E1 – Site Specific; Bondi Junction:

- i. Section 1.2 Urban Form Controls - Control 1.2(b) as the tower form is not sufficiently setback from the block edge form as illustrated by Figure 15 of the DCP, resulting in unacceptable bulk to the street and surrounding buildings and unacceptable impacts on the amenity of the locality and the internal amenity of apartments contrary to the objectives of the control.
- ii. Section 1.2 Urban Form Controls - Control 1.2(c) as the tower form is not considered to be slender enough to provide greater solar access to other properties, to clearly differentiate between the podium and tower elements and to provide adequate internal amenity to apartments.
- iii. Section 1.8 Street Alignment and Front Setbacks as the tower is not sufficiently setback from the street wall creating unacceptable bulk to the street and surrounding buildings, resulting in unacceptable impacts on the amenity of the locality and the internal amenity of apartments contrary to the objectives of the controls.
- iv. Section 1.10 Side and Rear Boundary Setbacks as the tower is not sufficiently setback from the eastern side boundary resulting in unacceptable impacts on the amenity of the locality and the internal amenity of apartments contrary to the objectives of the controls.
- v. Section 1.13 Number of Storeys – Control 1.13(a) as the tower exceeds the height control of 10 storeys resulting in unacceptable impacts on the locality.
- vi. Section 1.16 Design Excellence as the proposed development does not exhibit design excellence.
- vii. Section 1.19 Designing Buildings for Flexibility as Level 1 has been designed with reduced ceiling heights to the residential units which does not enable flexibility over time for conversion between residential and commercial uses.
- viii. Section 1.22 Wind Mitigation as the submitted Pedestrian Wind Report highlights unacceptable wind impacts at the south-west corner of the site and limited detail has been provided as to measures proposed to mitigate these impacts.

- ix. Section 1.23 Reflectivity, as the proposal will have unacceptable reflectivity to pedestrians or motorists in the surrounding area, or to occupants of neighbouring buildings and requires additional measures to be undertaken to reduce solar glare as outlined in the submitted Reflectivity Report.
6. The proposal will have an adverse impact on the amenity (solar access, overshadowing) of surrounding properties and will have an unacceptable impact upon the existing streetscape and public domain, having regard to section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.
 7. The proposal will have unacceptable impacts on the future resident's apartments that abut the registered club use, contrary to Section 4.15(1)(b)(c) of the Environmental Planning and Assessment Act 1979. In this regard, the proximity of residential apartments directly abutting the registered club use (particularly those located on levels 1 and level 2) have not been properly considered to ensure adequate separation to minimise the impacts associated with the registered club use and operation (including egress of patrons, noise – gaming machines, patrons, entertainment) so that this use does not unreasonably impact on future occupants or nearby residents.
 8. Insufficient information has been provided to properly assess various components of the proposal, contrary to Section 4.15(1)(b)(c) of the Environmental Planning and Assessment Act 1979. including, though not limited to:
 - i. State Environmental Planning Policy 64 – Advertising and Signage, whereby no plans or elevations have been provided of the proposed signage and the documentation references eight signs of a size from 1.1m x 2.5m up to 11.3m x 0.6m.
 - ii. Details for the use and operation of the commercial premise and registered club, including though not limited to; mitigating amenity impacts from noise and management of these commercial areas to nearby residential uses, patron capacity clarification, BCA requirements to demonstrate compliance, loading/unloading management, waste management practices, details of functions, kitchen fitout details, associated plant and mechanical ventilation associated with these uses.
 9. The proposal is not in the public interest contrary to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Report prepared by:	Report reviewed by:
Jo Zancanaro Senior Development Assessment Planner Date: 29 June 2018	Angela Rossi Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit) Date: 4 July 2018

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