



Report to the Sydney Eastern City Planning Panel

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC- 102
DA Number	DA-533/2017/1/A
LGA	Waverley Council
Approved Development	Demolition of buildings and the construction of a 10 storey mixed use building including 78 residential apartments, ground level retail, a registered club at ground and first floor levels and three levels of basement parking
Proposed Modification	Section 4.56 modification to approved layout and façade, increase number of apartments from 78 to 81, increase in floor space, divide retail tenancies, delete rooftop pool and provision of an outdoor cinema, and enlarge and alter roof top plant area
Street Address	28-42 Bronte Road and 84 Ebley Street, Bondi Junction
Applicant/Owner	Lucy Ford, C/- Capital Corporation Bondi Pty Ltd/ Bondi Junction-Waverley RSL Sub Branch Club Ltd
Date of DA lodgement	1 October 2020
Number of Submissions	6 submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Section 4.56 modification application of development consent granted by the Land and Environment Court for a development with a CIV of more than \$30 million
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 65 - Design Quality of Residential Flat Development • State Environmental Planning Policy (BASIX) 2004 • 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 • Urban Design Advice • Mechanical Advice • Acoustic Advice • Heritage Impact Statement • Shadow Diagrams • View impact analysis • Copy of submissions
Clause 4.6 requests	N/A
Summary of key submissions	<ul style="list-style-type: none"> • Height • Increase in density • Traffic and parking • Overshadowing • Proposed rooftop outdoor cinema and firepit
Report prepared by	Jo Zancanaro, Senior Development Assessment Planner, Waverley Council

Report date	1 April 2021
--------------------	---------------------

Summary of s4.15 matters

Yes

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

Legislative clauses requiring consent authority satisfaction

Yes

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?

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

Not Applicable

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?

Special Infrastructure Contributions

Not Applicable

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Yes

Have draft conditions been provided to the applicant for comment?

1. EXECUTIVE SUMMARY

Council is in receipt of a Section 4.56 modification application DA-533/2017/1/A from Capital Corporation Bondi Pty Ltd for modifications to the approved redevelopment of 28-42 Bronte Road and 84 Ebley Street, Bondi Junction known as Club Bondi Junction RSL.

DA-533/2017/1 for partial demolition of buildings and the construction of a 10 storey mixed use building including 78 residential apartments, ground level retail, a registered club at ground and first floor levels and three levels of basement parking was approved on 27 November 2019 via a s34 Agreement in the Land and Environment Court, subject to conditions.

Due to continued design development and refinement, a series of design updates have been made as part of the subject modification application and are broadly summarised as follows:

- An increase in the total apartments from 78 to 81.
- A corresponding update to apartment layouts, building envelope changes with associated amendments to window and door locations.
- Façade material and finishes updates.
- The removal of the pool from the rooftop communal open space area and replaced with an outdoor cinema and firepit.
- A street awning design/step location updated to reflect consent conditions.
- Street access updates, resulting from further detailed design resolution.
- Roof plant area updates and enlargement, resulting from further detailed design resolution.
- The dividing of retail tenancies, with entry doors added to Bronte Road.
- Carparking/motorcycle layout updated to reflect Australian Standards and consent conditions.
- Roller door access to the car parking basement in lieu of previous boom gate.
- Updated services areas.
- Updated storage.

The Section 4.56 application also proposes to modify Conditions 1 and 2 of the development consent. Condition 1 relates to the plan identification table which is required to be updated should the modification application be approved. Condition 2 relates to the amended landscape plan. The applicant also seeks to address condition 23 which relates to additional detailed design of the on site stormwater detention system.

The site is zoned B4 - Mixed Use under the Waverley Local Environmental Plan 2012.

Six (6) submissions were received to the application when notified during the assessment process. The matters raised are discussed in this report and can be summarised as relating to density, height, traffic and parking, overshadowing and rooftop outdoor cinema.

The proposal has been considered against Section 4.15 and 4.56 of the *Environmental Planning and Assessment Act 1979* and based on the assessment below is recommended for approval.

2. PREAMBLE

2.1 Site and Surrounding Locality

The site includes 28--42 Bronte Road and 84 Ebley Street, Bondi Junction which comprises six (6) properties containing two storey shop top houses 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 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 Grand Hotel redevelopment being 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. The site is zoned B4 – Mixed Use under the Waverley Local Environmental Plan (WLEP) 2012.



Figure 1: Location of site



Figure 2: Subject site frontage corner Bronte Road and Gray Street

2.2 Details of Approved Development

On 12 December 2017, development application DA-533/2017 was lodged with Waverley Council to redevelop the site occupied by the Club Bondi Junction RSL. This DA proposed the redevelopment of the site for partial demolition of buildings and the construction of a 13 storey mixed use building including 124 residential apartments, 200m² of retail floor space, a registered club at ground and first floor levels and four levels of basement parking. On 19 July 2018, DA-533/2017 was refused by the Sydney Eastern City Planning Panel.

On 19 October 2018, a Section 8.2 review application was lodged with Council with an amended scheme reducing the height of the building to ten (10) storeys, a reduction in floor space and the number of apartments down to 80.

On 19 December 2018, the applicant lodged an appeal with the Land and Environmental Court (LEC) against the Council's deemed refusal of the review application.

Council entered into a Section 34 agreement with the applicant on 20 November 2019 subject to amended plans and conditions. **DA-533/2017/1** for partial demolition of buildings and the construction of a ten (10) storey mixed use development containing a club premises, 78 residential apartments, basement parking with associated excavation and landscaping works was approved on 27 November 2019 subject to conditions. Details of the approved development are summarised as follows:

- Demolition of existing buildings and structures on a portion of the site, and retention of the existing heritage façade along part of the Bronte Road and Gray Street frontage of the site.
- A 10-storey mixed-use development
- New club premises for Club Bondi Junction RSL on the ground and first floors.
- Relocated ground floor retail tenancies.

- 78 new residential apartments over eight levels, with associated private open space areas.
- Activated street frontages to Gray Street, Bronte Road and Ebley Street.
- Car parking for a total of 117 cars within three levels of basement parking, with associated excavation to approximately 10m.
- Landscape works including communal open spaces at Level 9, planting along the façade of private terraces, and landscaping.
- The deletion of an existing driveway/crossover to Ebley Street.

2.3 The Proposal

The modification application seeks amendment to the approved mixed use development including modification to approved layout and façade, increased number of apartments from 78 to 81, increase in floor space, division of retail tenancies, deletion of the rooftop pool, provision of an outdoor cinema with firepit, and enlarge and alter the roof top plant area. A summary of the modifications are provided below with a detailed schedule of all changes attached to the architectural plans:

- An increase in the total apartments from 78 to 81.
- A corresponding update to apartment layouts, building envelope changes with associated amendments to window and door locations.
- Façade material and finishes updates.
- An increase in gross floor area by 109m² from 9,647m² to 9,756m² (a compliant floor space ratio of 4.47:1 is proposed)
- The removal of the pool from the rooftop communal open space area.
- Provision of an outdoor cinema with firepit to the rooftop communal open space area for resident use.
- A street awning design/step location updated to reflect consent conditions.
- Street access updates, resulting from further detailed design resolution.
- Roof plant area updates and enlargement, resulting from further detailed design resolution.
- The dividing of retail tenancies, with entry doors added to Bronte Road.
- Carparking/motorcycle layout updated to reflect Australian Standards and consent conditions.
- Roller door access to the car parking basement, in lieu of previous boom gate.
- Updated services areas.
- Updated storage.

The following conditions of consent relate to the subject modification:

1. APPROVED DEVELOPMENT

The development must be in accordance with:

- (a) *Architectural Plans prepared by Group GSA identified as follows:*

Drawing description and No.	Revision No. and Date
DA2001 Basement 3 Plan	Issue K – 19/11/2019
DA2002 Basement 2 Plan	Issue K – 19/11/2019
DA2003 Basement 1 Plan	Issue J – 19/11/2019
DA2010 Ground Level Plan	Issue I – 11/09/2019
DA2011 Level 1 Plan	Issue I – 11/09/2019
DA2012 Level 2 Plan	Issue K – 11/09/2019
DA2013 Level 3-5 Plan	Issue L – 11/09/2019

<i>DA2014 Level 6-7 plan</i>	<i>Issue E – 10/10/2019</i>
<i>DA2015 Level 8 Plan</i>	<i>Issue K – 11/09/2019</i>
<i>DA2016 Level 9 Plan</i>	<i>Issue H – 16/09/2019</i>
<i>DA2017 Roof Plan</i>	<i>Issue I – 16/09/2019</i>
<i>DA3000 Elevation North – Gray Street</i>	<i>Issue J – 8/11/2019</i>
<i>DA3001 Elevation West – Bronte Road</i>	<i>Issue JH – 8/11/2019</i>
<i>DA3002 Elevation South – Ebley Street</i>	<i>Issue J – 8/11/2019</i>
<i>DA3003 Elevation East</i>	<i>Issue J – 8/11/2019</i>
<i>DA3100 Building Sections</i>	<i>Issue H – 8/11/2019</i>

- (b) *BASIX Certificate;*
- (c) *Traffic Impact Assessment Report prepared by ASON Group dated 18 October 2018 and date stamp received by Council on 19 October 2018 as amended by the architectural plans identified in Condition 1(a) above and conditions stipulated below;*
- (d) *Geotechnical Investigation Report prepared by Aargus report No.GS7062-1B dated 23 November 2017 and date stamp received by Council on 19 October 2018, as amended by the architectural plans identified in Condition 1(a) above;*
- (e) *Solar Light Reflectivity Study prepared by Windtech dated 4 October 2018 and received by Council on 19 October 2018 as amended by the architectural plans identified in Condition 1(a) above;*
- (f) *Revised Acoustic Assessment prepared by Acoustic Logic dated 4 October 2018 and received by Council on 19 October 2018 as amended by the architectural plans identified in Condition 1(a) above;*
- (g) *Hydraulic Services Concept Design Report prepared by Insync Services Pty Ltd dated 3 November 2017 and date stamp received by Council on 19 October 2019, as amended by the architectural plans identified in Condition 1(a) above;*
- (h) *Stormwater Drainage Development Application Report prepared by Insync services Pty Ltd dated 16 October 2018 and date stamp received by Council on 19 October 2019, as amended by the architectural plans identified in Condition 1(a) above;*
- (i) *The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.*

Except where amended by the following conditions of consent.

2. GENERAL MODIFICATIONS

The proposal shall be amended as follows....

- (f) *An amended Landscape Plan is to be submitted to Council which reflects the amended plans/ documents listed in Condition 1 of Appendix B. In addition, the Landscape Plan shall:*
 - i. Be fitted with automatic irrigation systems to the communal terrace.*
 - ii. Provide a planter along the street frontage perimeter to provide a green edge to the communal space when viewed from the streetscape. The planter shall be 1m in width, with a minimum soil depth of 600mm.*

3. ON-SITE STORMWATER DETENTION DETAILS

An on-Site Stormwater Detention (OSD) tank is required to be installed within the development in accordance with Council's Water Management Technical Guidelines.

Details of the OSD system are required in drawing format and must include dimensions, cross & long sections, top water level, details of discharge control pit, orifice plate including orifice diameter and depth of water above centreline of orifice, storage volume, overflow system.

Details are required to be submitted and approval by Council's Executive Manager, Infrastructure Services (or delegate) prior to the issue of any Construction Certificate.

Condition 1 is to be updated to reflect the amended plans. Condition 2(f) is to reflect the corresponding design updates in the amended landscape plan. Condition 23 relates to onsite stormwater detention details, with additional detail now being provided with respect to on-site stormwater detention and resulting from further coordination of access arrangements to the required substation and the achievement of 4m separation requirements. The tank has been re-oriented to allow for required clearance and the storage capacity remains unchanged.



Figure 3: Photomontage from Bronte Road looking south-east towards the site



Figure 4: Photomontage from corner Ebley Street and Bronte Road looking north-east towards the site

Council is also taking the opportunity to rectify administrative errors in the numbering of conditions of the development consent. The following condition numbers have been incorrectly numbered and will need amended sequencing:

- Missing condition number for Excavation and Backfilling located after condition 28 – Amend to Condition 28A
- Incorrect sequencing at Condition 66-68. Correct sequencing from there onwards
- Incorrect number at Condition 72 and 75. Correct number and sequencing.

3. ASSESSMENT

The following matters are to be considered in the assessment of this modification application under sections 4.15 and 4.56 of the *Environmental Planning and Assessment Act 1979* (the Act).

3.1 Section 4.56 Considerations

Section 4.56 applications - Modification by consent authorities of consents granted by the Court - the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and each person who made a submission in respect of the relevant development application has been notified of the proposed modification by sending written notice and submissions considered as discussed further in the report.

The following provides a summary table of the modifications proposed under this Section 4.56 application. Detailed assessment of components of modifications are provided under Section 3.2 of this Report (a detailed schedule of all changes is attached to the architectural plans).

Table 1: Summary list of proposed modifications

LEVEL	AMENDMENT TO LEC APPROVED PLAN	SATISFACTORY
BASEMENT 03	Parking spaces adjusted	Yes
	Combined fire services water storage tank added	Yes
	Car wash bay/ visitor parking relocated	Yes
BASEMENT 02	Parking spaces adjusted to align with structural column layout	Yes
	Residential waste relocated to Ground Floor	Yes
	Motorcycles relocated to Basement 01	Yes
BASEMENT 01	Parking spaces adjusted	Yes
	Motorcycle relocated	Yes
	Fire stair egress adjusted. Residential entry Straightened.	Yes
	Services added	Yes
GROUND	Residential entry straightened. Services added Doors added to retail spaces and tenancy divided into three Awnings amended to satisfy consent conditions	Yes
	Internal access proposed from Residential lobby into Indoor gaming area of RSL	See discussion below
LEVEL 1	Stair refined and space above substation hatch removed	Yes
	Landscape terrace reduced to club area/ plant room adjusted	See discussion below under Floor Space
	Fire stair and services reorganised	Yes
LEVEL 2	Western external wall straightened from approved splayed wall	Yes - See discussion below
	Internal apartment layout configurations amended including addition of one unit at this level	Yes
	Splayed eastern external wall straightened	See discussion under ADG
	Services in corridor moved to the east, corridor wall moved.	Yes
LEVEL 3-5	Apartment 301 internal layout modified, external wall pushed South, to increase terrace side	See discussion below regarding enclosed balcony to Unit type 01
	External walls mirrored in terms of the step in the building envelope	Yes
	Internal apartment layout configuration amended.	Yes
	External wall pulled back to create balcony	See discussion below regarding overlooking from the balcony of Unit type 03 into Bedroom of Unit Type 02
	General building envelope changes	Yes – See further discussion below regarding changes to building envelope
LEVEL 6	General building envelope changes	Yes – See further discussion below regarding changes to building envelope
	Internal apartment layout configuration amended.	Yes
LEVEL 7 - 8	General building envelope changes	Yes – See further discussion below regarding changes to building envelope
	Internal apartment layout configuration amended. Including addition of one unit at Level 8	Yes

LEVEL 9	3 Bed unit changed to 3 x 2 bed units. External wall pushed out within the balcony area which results in addition of one unit at this level	Yes
	External wall splay direction changed to minimise shelf shading. Internal apartment configuration amended.	Yes
	General building envelope changes	Yes – See further discussion below regarding changes to building envelope
	Swimming Pool removed and outdoor cinema proposed with firepit	See discussion below
	Communal accessible bathroom added	Yes
ROOF	Plant area extended. Cooling tower for residential removed	See discussion below
	Roof outline adjusted	Yes – See further discussion below regarding changes to building envelope

3.2 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.

3.2.1 SEPP (Building Sustainability Index – BASIX) 2004

An amended BASIX Certificate has been submitted with this application.

3.2.2 SEPP 55 Remediation of Land

Site contamination was considered in the original application.

3.2.3 SEPP 65 Design Quality of Residential Flat Development

The application was not referred to the Waverley Design Excellence Advisory Panel (DEAP) given the nature of the works proposed however, an assessment has been undertaken with regard to the nine design quality principles under SEPP 65 which are set out in Table 2 below (note that the application was referred to Council's internal urban design team which is addressed in detail under Section 3.2.6 of this report):

Table 2: Assessment against the Nine Design Quality Principles under SEPP 65

Principle
Principle 1: Context and Neighbourhood
The proposed unit reconfiguration and envelope changes will not add to the building height, bulk and scale of the approved development when viewed in its streetscape context or from neighbouring buildings.
Principle 2: Built Form and Scale
The modifications do not result in unreasonable overshadowing to the adjoining or adjacent properties or result in the loss of views. The proposal is consistent with the built form and scale of the approved development and does not result in unreasonable impacts on the amenity of neighbouring properties or the locality (see further discussion below under Section 3.2.6).

Principle
<p>Principle 3: Density</p> <p>The proposed additional and reconfigured units will have an acceptable level of amenity subject to conditions (see further discussion below).</p>
<p>Principle 4: Sustainability</p> <p>The proposed modifications do not seek to alter the approved sustainability measures on site.</p>
<p>Principle 5: Landscape</p> <p>An amended landscape plan has been submitted with the modification application which has been reviewed and is considered to be satisfactory. The approved swimming pool is to be removed from the common roof terrace area and replaced with an outdoor cinema and firepit. Further discussion on this element of the modification application is addressed in detail below.</p>
<p>Principle 6: Amenity</p> <p>Shadow diagrams were submitted with the modification application which demonstrate that there is no unreasonable overshadowing on neighbouring properties as a result of the modifications proposed. The proposed modifications will also not result in unreasonable view loss impacts. The proposed additional and reconfigured units will have an acceptable level of amenity subject to conditions (see further discussion below).</p>
<p>Principle 7: Safety</p> <p>The proposal does not affect the safety and security of the approved development.</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <p>The proposal maintains an appropriate apartment mix and the apartments meet the minimum size and area for apartments outlined in the Apartment Design Guide.</p>
<p>Principle 9: Aesthetics</p> <p>The proposed modifications maintain the overall aesthetic of the building. Changes are proposed to materiality and finishes, however, these are considered to still be of a high quality.</p>

Design Criteria	Consistency	Planning assessment
4D Apartment size and layout <ul style="list-style-type: none"> • 1 bedroom - 50m² • 2 bedroom - 70m² • 3 bedroom - 90m² • open plan living max depth 8m from a window • master bedrooms min 10m² • bedrooms min 9m² • bedroom dimension – min 3m • living rooms min width - 3.6m for 1 bed, 4m for 2 and 3 bed 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>All of the proposed reconfigured apartments comply with the minimum internal area requirements with many units exceeding the requirements.</p>
4E Private open space and balconies <ul style="list-style-type: none"> • 1 bed- 8m², depth 2m • 2 bed - 10m², depth 2m • 3+ bed- 12m², depth 2.4m • located near living space, • orientated to sun • integrated into design of building • be safe 	<p>Partial</p> <p>Yes</p> <p>Partial</p> <p>Yes</p> <p>Yes</p>	<p>The modified application proposes an enclosed balcony space to unit type 01 on Levels 3 to 5 which does not satisfy the requirements of the ADG in both depth and use. The area is enclosed by walls and glazing being an extension of GFA. It is recommended a condition be imposed to address this issue accordingly (see further discussion below this table).</p> <p>There is overlooking from the proposed balcony at unit type 03 (ie. units 303, 403, 503) to the bedroom of unit type 02 (ie units 302, 402, 502) on Levels 3-5. A condition is recommended requiring the installation of a privacy screen to this balcony.</p> <p>Not all balconies are oriented to the sun with some south facing balconies proposed to take advantage of south facing views.</p>
4F Common circulation and spaces <ul style="list-style-type: none"> • max 8 apartments off a circulation core • max apartments sharing a lift is 40 • safe and promote social interaction 	<p>No</p> <p>No</p> <p>Yes</p>	<p>A maximum of 11 units is proposed off a circulation core which is similar to the approved application.</p> <p>The increase in the number of apartments from 78 to 81 results in a non-compliance of one unit over this requirement for lift sharing. This is considered to be a minor non-compliance which can be supported.</p>
4G Storage <ul style="list-style-type: none"> • 1 bed- 6m³ • 2 bed - 8m³ • 3+ bed- 10m³ • To be conveniently located and accessible 	<p>Yes</p>	<p>Sufficient storage is provided in each apartment and a storage cage in the basement car park levels.</p>
4H Acoustic Privacy	<p>Yes</p>	<p>Acceptable (see further discussion below regarding proposed outdoor cinema to communal open space)</p>

Configuration

4K Apartment mix L2 – 10 apartments – 4 x 1B, 5 x 2B, 1 x 3B. L3-L5 – Typical level - 11 Apartments – 4 x 1B, 6 x 2B, 1 x 3B. L6 – 11 Apartments – 6 x 1B, 4 x 2B, 1 x 3B. L7-L8 – Typical level - 11 Apartments – 6 x 1B, 4 x 2B, 1 x 3B L9 – 5 Apartments – 3 x 2B, 2 x 3B	Yes	The approved development, as proposed to be modified, maintains a mix of one, two and three bedroom apartments.
4M Facades	Yes	There is proposed to be a change in the materials and finishes (see discussion below)
4N Roof design	Yes	See discussion below regarding design of the roof plant
4O Landscape design and 4P Planting on structures	Yes	The proposed amended landscape plan is considered to be satisfactory

The following is a detailed discussion of the issues identified above in relation to the ADG.

Modifications to Units

Minor reconfiguration of apartment design is proposed at all floor levels due to detailed design resolution at this stage of the development. The proposed increase in the number of units proposed from 78 to 81 is proposed on Levels 2, 8 and 9 (one additional unit to each of these floor levels).

As indicated, the proposed modifications generally follow the guidance of the ADG, with the exception of the lack of solar access to south facing units being above the maximum recommended (maximum 15% when 25.9% is proposed under the modification application (previously approved at 20.5%). This is as a result of the orientation of these units to take advantage of views to the south. Whilst not an ideal outcome for the amenity of the occupants of these units, it is considered that this non-compliance does not warrant a refusal of the application.

As indicated in Table 3 above, the modified application proposes an enclosed balcony space to unit type 01 (ie. units 301, 401, 501) on Levels 3 to 5 which does not satisfy the requirements of the ADG in both depth and use. The area is enclosed by walls and glazing, being weather protected and therefore an extension of GFA (refer to **Figure 5** below).



Figure 5: Comparison plans of Levels 03-05 showing change in balcony to unit type 01 (previous approval scheme on left, proposed scheme on right)

It is noted that the original development approved for the site also included enclosed balconies to these units at this corner location, however, this has been inadvertently missed during the LEC process given the applicant's documents identifying compliance in this regard. Given the modification application now proposes to reconfigure this unit type and alter the balcony size and location, it is recommended that this matter be addressed via condition with the provision of an adequate open space area being provided. The current design of this balcony provides little in the way of outdoor living area to these units with the potential for this space to be mainly utilised as indoor habitable floor space and redesigned as such. It is recommended a condition be imposed to ensure that these unit types are provided with an acceptable outdoor balcony area that is suitable for external living.

Building Separation, Setbacks and Amenity

Assessment was undertaken during the consideration of the original application approved by the LEC of proposed separation distances for the subject building and impacts on the amenity of its occupants. Minor changes are now proposed to the setbacks proposed at each elevation which are demonstrated in the comparison drawings below at **Figure 6**.

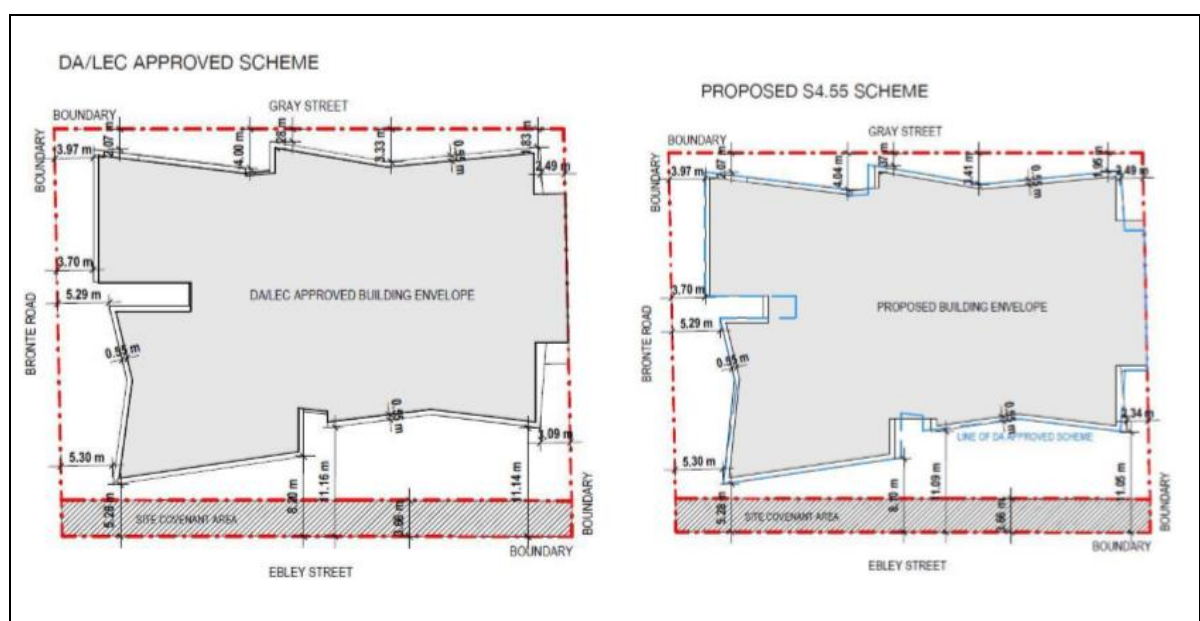


Figure 6: Comparison Plans showing changes in setbacks proposed

It is noted that a realignment of the north-western corner of the building is also proposed at Level 2 which was originally approved as a splayed corner element but has now been aligned to be parallel to the street alignment. This can be seen in **Figure 7** below.



Figure 7: Comparison Plans of Level 2 showing change in splay at north-west corner and south side (previous approval scheme on left, proposed scheme on right)

The approved development achieved setbacks ranging from 2.4m to 7.2m along Bronte Road, and 5.9m to 13.0m along Ebley Street from the boundary. Level 2 is further setback to assist in separating the podium from the upper tower form. The modified design involves a series of minor updated setbacks. The fundamental urban design principles however remain unchanged. The proposed new setbacks are considered to be generally consistent with what was approved, with the minor changes proposed not being readily discernible when viewed from the street or surrounding buildings. The proposed new setbacks also do not result in unreasonable impacts on the amenity of nearby properties from overshadowing, view loss, visual bulk and scale or visual and acoustic privacy. The modified setbacks can be supported.

It is proposed to amend the envelope at the eastern elevation over Levels 06-09. Previous approved windows to bedrooms of these units are to be re-oriented towards the north only for solar access, which is considered to be acceptable (refer to **Figure 8** below).



Figure 8: Comparison plans of Levels 07-08 showing change in window form at eastern side (previous approval scheme on left, proposed scheme on right)

3.2.4 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, as proposed to be modified, 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 majority of the proposed modified 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 modified development is expected to have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries.

3.2.5 Waverley Local Environmental Plan 2012 (WLEP)

The relevant matters to be considered under the WLEP for the proposal are outlined below:

Table 4: WLEP Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposed modifications to the development address the provisions of clause 1.2 of WLEP.
Part 2 Permitted or prohibited development		
Land Use Table B4 Mixed Use Zone	Yes	The approved mixed use development as proposed to be modified, remains permitted with development consent in the B4 Mixed Use Zone. The development remains consistent with the zone objectives.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> • 32m 	No change	See discussion below regarding change to the overall area of roof plant and equipment
4.4 Floor space ratio (FSR) <ul style="list-style-type: none"> • 6:1 • Site Area:2,180m² 	Yes	Approved GFA: 9,647m ² Approved FSR: 4.43:1 Proposed GFA: 9,756m ²

Provision	Compliance	Comment
<ul style="list-style-type: none"> Permissible GFA: 13,080m² 		Proposed FSR: 4.47:1

Part 5 Miscellaneous provisions

5.10 Heritage Conservation	Yes	The subject sites at 28-42 Bronte Road contain listed heritage items under WLEP for their façade significance. Accordingly, the provisions of clause 5.10 are applicable to the proposed modified development. This matter was assessed as part of the original application and no changes are sought under this modification application that would result in significant impacts on the heritage facades to be retained. The modified application was referred to Council's Heritage Architect who raised no objections.
----------------------------	-----	--

Part 6 Additional local provisions

6.2 Earthworks	Yes	The application proposes three basement levels, excavated to a depth of 10m. This matter was assessed as part of the original application and no changes are sought under this modification application to excavation proposed.
6.5 Active Street frontages in the Bondi Junction Centre	Yes	The development, as proposed to be modified, remains consistent with this Clause of the WLEP.

The following is a detailed discussion of the issues identified above in relation to the WLEP.

Height

The approved development on the site under DA-533/2017/1 has gone through an extensive LEC process, which endorsed the built form and envelope. This included approval of the increase in the height proposed for the site allowing an overall maximum height of 35.56m (to RL 115.56 to top of roof plant) above the applicable development standard of 32m under WLEP. The LEC upheld the Clause 4.6 submission under appeal.

The subject modification application does not seek to increase the height but seeks to extend the area of plant and equipment proposed to the roof area from 130m² to approximately 240m² in area plus add photovoltaic panels. The main roof plant area will run east-west along the central length of the roof (refer to **Figure 9** below). The applicant advises that the plant area is required to accommodate the cooling tower for the RSL club space, mechanical pumps, mechanical boilers for heating system, residential condensers which are to be double stacked to minimise footprint, air supply intakes and air exhaust outlets.

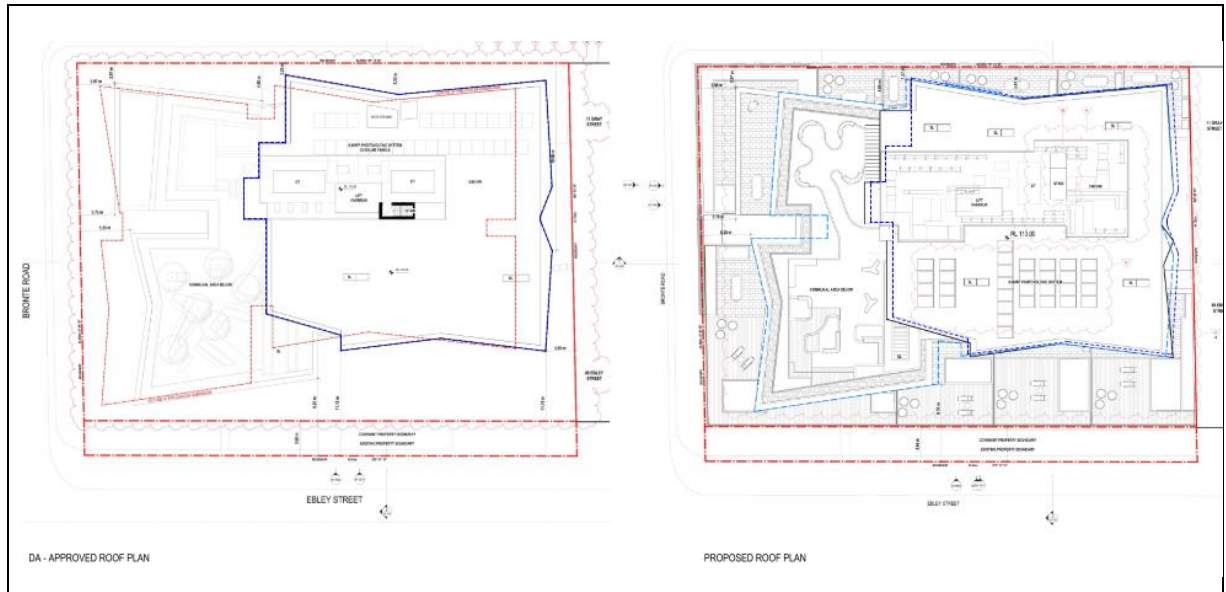


Figure 9: Comparison roof plan showing modification to approved plant area (previous approval scheme on left, proposed scheme on right)

The applicant has submitted a Mechanical Services Concept Design Report prepared by Intrax Mechanical Engineers dated 22 July 2020 with the modified application outlining the service requirements for the development. A further supporting document from Intrax projects, dated 3 February 2021 was submitted to Council on 10 February 2021 stating:

The mechanical systems on the roof top in the Development Application submission were concept only. During the design development phase it has become apparent that the roof plant space was inadequate and the current proposed roof top plant is required to conceal all mechanical services for the building.



Figure 10: Comparison west elevation showing modification to approved plant area as viewed from Bronte Road frontage (previous approval scheme on left, proposed scheme on right)

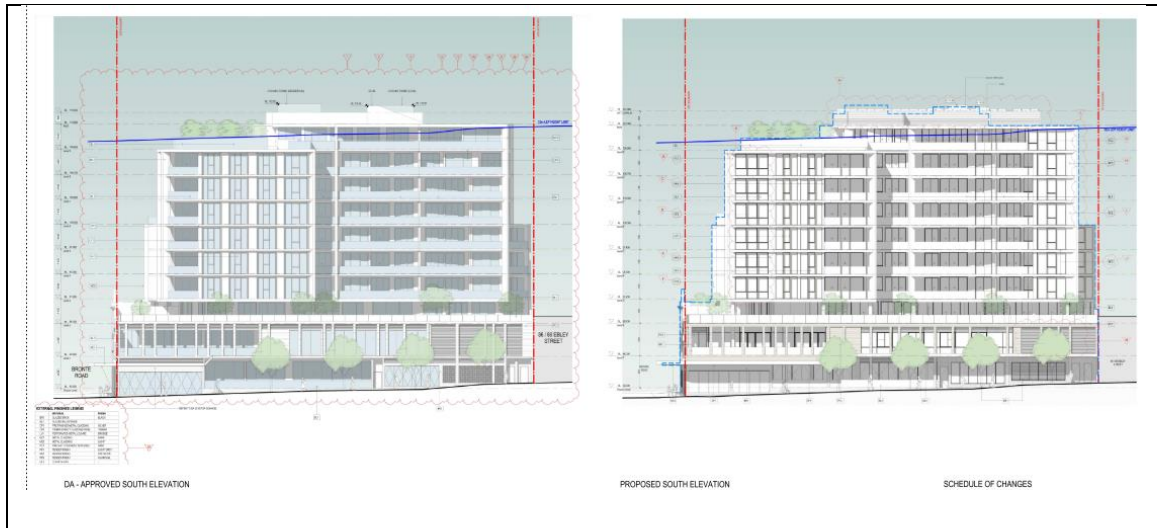


Figure 11: Comparison south elevation showing modification to approved plant area as viewed from Ebley Street frontage (previous approval scheme on left, proposed scheme on right)

The increase in the area proposed to accommodate the building's plant and equipment under this modification application is as a result of the design resolution in relation to mechanical servicing of the building which is not unusual for a development of this scale at Construction Certificate stage.

The height development standard continues to be applicable even though a clause 4.6 objection to a development standard is not required to be provided given this is a S4.56 modification application and no increase in height is proposed (plant area widens horizontally, rather than increases in height). However, the proposal does seek to extend the area of non-compliance that is breaching the height plane. In this regard, the proposal is to be assessed against the objectives of the development standard which state as follows:

(1) The objectives of this clause are as follows—

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,*
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,*
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

Objective (c) is not relevant to the subject development, as the subject site is located within the B4 – Mixed use zone.

Shadow diagrams and a view impact analysis have been submitted with the modification application to ascertain that the development preserves the environmental amenity of neighbouring properties and public spaces and the sharing of views as a result of the proposed modified development, in accordance with objective (a) of the height development standard. The shadow analysis indicates that there will be no unreasonable impacts as a result of the change in the building envelope proposed under this modification application.

The view impact assessment analyses view impacts as assessed from Meriton Suites located to the north-west of the site at 95-97 Grafton Street, Eastgate Tower to the west at 71-85 Spring Street and

Genoa Tower located directly opposite the subject site to the west at 80 Ebley Street. During notification of the modification application, no submissions were received that raised view impacts as an issue.

The submitted view impact analysis is addressed in more detail below under Section 3.2.6. In summary the submitted view impact analysis and the previous view impact assessment undertaken during assessment of the original DA ascertained that there will be no unreasonable impacts as a result of the development.

In regards to acoustic privacy impacts, standard conditions were imposed on the original consent regarding operational aspects of the mechanical plant and equipment to ensure compliance with the *Protection of the Environment Operations Act 1997*. This continues to be applicable to the subject modification application.

The increase in the roof plant area does not change the overall appearance of the approved development when viewed from the street. There will be no unreasonable impacts on the amenity of nearby properties as a result of overshadowing, view loss, visual or acoustic privacy. The proposed modifications to the roof plant area are considered to be acceptable and can be supported.

Floor space

The site is subject to a maximum FSR development standard of 6:1 or a maximum permissible GFA of 13,080m² in accordance with Clause 4.4 of WLEP. The original development has an approved GFA of 9,647m² or an FSR of 4.43:1. The proposal seeks an increase in floor space to an overall GFA of 9,756m² or an FSR of 4.47:1.

The proposed development as proposed to be modified has a compliant FSR. The location of the additional floor space is distributed throughout the development with reduced setbacks to the tower form above podium level in some areas and amended floor space to the RSL at Ground and First floor level. The modified building envelope is addressed in further detail under Section 3.2.6 of this report. The additional floor space to the First Floor level of the RSL is as a result of enclosing part of the open terrace area at the western side of the podium and a reduced plant room at the south-eastern corner. This is considered to be an acceptable outcome and can be supported (Refer to **Figure 12** below).



Figure 12: Comparison Club RSL first floor plan showing additional floor space (previous approval scheme on left, proposed scheme on right)

3.2.6 Waverley Development Control Plan (WDCP) 2012 - Amendment No.9 – Effective 1 October 2020

The relevant matters to be considered under the WDCP for the proposal are outlined below:

Table 5: Waverley DCP 2012 – Part B General Design Provisions Compliance Table

[illegible]

Development Control	Compliance	Comment
16 Public Domain	Yes	An amended Reflectivity Report has been submitted with the modification application which makes recommendations to reduce solar glare to pedestrians or motorists in the surrounding area, or to occupants of neighbouring buildings. This report is referenced in the suite of documents outlined in the conditions of consent.

Table 6: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

This part applies to development that is also subject to State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Apartment Development. The relevant sections of Part 3 of WDCP as it applies to the subject modification application are addressed in Table 6.

Development Control	Compliance	Comment
3.2 Height		
Compliance with the maximum building height under WLEP	No	See discussion above under WLEP
3.5 Building design and streetscape		
<ul style="list-style-type: none"> Designed to be sensitive to the streetscape character Respond to the existing streetscape character Colour and finish of external materials should be sympathetic to the streetscape and contribute to the overall appearance of the building 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The proposed amendments to the elevations have been designed to be sensitive to the streetscape character, responding to the existing streetscape context.</p> <p>It is proposed to amend the materials and finishes from that originally approved. Metal cladding is to be changed throughout the development. The façade is to be finished with pre-finished fibre cement cladding and painted render in black and white. Glossed black finish brick tiles are to be used at street level. Bronze finish metal louvre screens are to be used. Glass balustrades are proposed. The proposed amended materiality and colours are considered to be acceptable.</p>
3.8 Pedestrian access and entry		
Provide main building entries at street level, that are legible, safe and well lit	Yes	Building entries are to be retained as approved. It is noted that internal access to the indoor gaming area is proposed from the residential lobby, however, it is considered that the two uses should be kept separate as it is unclear how this entry will be managed. It is also considered that the social impacts associated with gambling and the direct overlap with the residential use through the availability of internal access arrangements may result in unreasonable impacts on the community. Any approval recommendation to be conditioned accordingly.

Development Control	Compliance	Comment
3.10 Communal space		
Consider the magnitude of the impact of roof top terraces on both privacy and noise for neighbouring residents with the reasonableness of the proposal	Partial	It is proposed to delete the approved swimming pool and replace with an outdoor cinema and firepit to the communal area on Level 9. The cinema screen is to be mounted on the western facing wall at the northern end of the communal area with the projector located in the adjacent garden bed. The applicant has submitted a letter from acoustic consultants Acoustic Logic dated 4 February 2021 advising that there is to be <i>'no provision for a sound reinforcement system and that the audio playback from film screenings is to be via wireless headphones'</i> . The applicant further advises that <i>'any screen is to be located below an awning and form part of the landscaped area ensuring light impact is negligible'</i> . Concerns are raised regarding the potential for impacts from flickering light of a cinema screen to adjacent properties. It is recommended that any approval recommendation restrict the use of the outdoor cinema up until 10pm Thursday to Saturday, limit the number of people to twenty (20) only and its use to residents of the apartment development component only. The proposed firepit is also not to be operated by the burning of solid fuel with approval conditioned accordingly. A general condition should be placed on the approval recommendation limiting the hours of operation to 7am to 10pm seven days of the rooftop communal open space area.
3.14 View and View Sharing		
New development designed to minimise view loss to adjoining and adjacent properties	Yes	See discussion below
3.15 Visual Privacy and Security		
Provide louvres or screens to windows/ balconies where necessary	Yes	There is overlooking from the proposed balcony at unit type 03 to the bedroom of unit type 02 on Levels 3-5. A condition is recommended requiring the installation of a privacy screen to this balcony.
3.16 Acoustic Privacy		
Minimise noise transmission between dwellings by locating noisy and quieter area next to other noisy or quiet areas eg. Living rooms adjacent to living rooms and	Partial	The approved application and modified proposal retains some units configured with living rooms adjacent to bedrooms of adjoining units. In some instances, unit layouts have been improved in the modified proposal, however, some units still retain this layout.

Development Control	Compliance	Comment
bedrooms adjacent to bedrooms.		
3.21 Building Services		
Ensure integrated into the design of buildings Where located on podium of roof levels, building service elements must not be visible from the street or impact public or private views	Yes	See discussion above regarding amendments to the proposed roof plant and equipment area.

Table 7: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table

Development Control	Compliance	Comment
1.1 Other Policies, Strategies and Standards		
1.2 Design		
1.2.1 Frontages	Yes	Active street frontages have been provided to Bronte Road, and extend around to part of Gray Street and Ebley Street. No changes are proposed to this under the modified proposal.
1.2.2 Awnings	Yes	Design updates have been made to street awnings for compliance with conditions of consent, which are satisfactory
1.2.3 Lighting	No details provided	The applicant advises that these details will be provided at construction certificate stage but states that the light spill of under awning light will be directed onto the public footpath
1.2.4 General Amenity	Yes	No change to uses proposed
1.2.5 Noise	No change	No change to uses proposed
1.3 Hours of operation		
	No change	

Table 8: 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 	<p>Yes</p> <p>No</p>	<p>The development, as proposed to be modified, retains the two storey podium to all three frontages given the location of the heritage listed items on site.</p> <p>Reduced setbacks from street frontages were approved under the original application. Minor changes are proposed to these setbacks as discussed above which are considered to be appropriate in the context of the streetscape.</p>

1.3 Building use		
<ul style="list-style-type: none"> • Primary streets - Ground floor primary streets used as retail, First floor used for commercial • Secondary – ground used for commercial preferably retail • Entries to residential not to take up more than 30% of frontage 	<p>Yes</p> <p>Yes</p>	<p>The modified proposal seeks to divide the single large retail tenancy located at the south-western corner into three separate retail tenancies. The proposed modified retail tenancies still address the street, promoting an active street frontage. In addition to retail frontages, the site is to accommodate the Club RSL Bondi Junction at ground and First floor levels, as approved. No change is proposed to the uses proposed</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>Yes</p> <p>Yes</p>	<p>Proposed from Gray Street (secondary frontage) as approved.</p>
<p>1.4.4 On-site parking</p>	<p>Yes</p>	<p>WDCP has a maximum parking provision in place. Whilst the modified proposal seeks to increase the number of units on site, it is not proposed to increase the car parking on site. No change is proposed to the car parking under this modification application and the development is still required to comply with the original conditions of consent.</p>
1.5 Subdivision		
<p>Design of buildings is to interpret the small lot subdivision pattern on street i.e. 6m grid</p>	<p>Yes</p>	<p>The WDCP 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 and the modified separation of retail spaces now proposed.</p>
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 	<p>Yes</p> <p>Yes</p>	<p>28-42 Bronte Road are identified as Heritage items (Façade only) under Waverley LEP 2012 (1171). It is proposed to retain the facades to 28-36 Bronte Road. 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).</p>

proportions and alignments	Yes	The proposed amendments do not alter the treatment of the retained facades. The proposed enclosure of the void over the RSL terrace at the lower section of the retained heritage façade will be a positive improvement as it will prevent daylight being visible through conserved windows of the façade, as outlined in the submitted heritage advice prepared by John Oultram Heritage and Design. The development, as proposed to be modified, was referred to Council’s Heritage Architect who raised no objections to the amended proposal.
• Height to match streetscape proportions and scale of heritage item	Yes	
• Original façade elements above awning level be retained where possible	Yes	
• Compatible materials and positive integration of contemporary materials	Yes	
• Awnings to be retained or replaced with similar	Yes	
• Uniform tonal distribution of colour		
1.6.2 Streets with Heritage and Buildings of Historic Character		
• New buildings to have 2/3 storey façade to street alignment	Yes	
1.7 Active street frontages		
• Bronte Road and Ebley Street are identified as Primary Shopping Streets	Yes	Active street frontages have been provided to Bronte Road, and extend around to part of Gray Street and Ebley Street. No changes are proposed to this under the modified proposal.
• Gray Streets is a secondary Shopping Street	Yes	
1.8 Building Orientation		
• Podiums are to be oriented to an address the street with a continuous street frontage	Yes	
• Orientate tower forms to the front and rear of lots where possible	No change	
1.9 Street alignment		
• Buildings are to have front elevations aligned to the street boundary	No	The development, as proposed to be modified, retains the two storey podium to all three frontages following the street alignment at these frontages. The approved tower form above proposes a modulated and angled form that does not follow the street alignment. Reduced setbacks from street frontages were approved under the original application. Minor changes are proposed to these setbacks as discussed above which are considered to be appropriate in the context of the streetscape.
• Corner sites are to be built to both street frontages for the podium	No	
• Streets with heritage 2/3 storey then 6m setback	No	
• Tower forms to be setback 6m from podium		

1.10 Separation Distances		
• Comply with the ADG where applicable	No	See discussion above under ADG
1.11 Side and Rear Boundary Setbacks		
• Avoid orienting living areas to side boundaries	Yes	See discussion above under ADG
• Where a blank wall exists on the adjacent boundary, a nil setback is to be provided to podium	Yes	
• Where neighbouring windows face side boundaries, setbacks of 12m (primary living areas/ balconies), 6m (all other)	Yes	
1.12 Building footprint		
• Provide common areas such as corridors and entrances with natural light and cross ventilation	Yes	
• Commercial uses to be provided in podium floors	Yes	
• Residential tower forms to comply with ADG	No	
1.13 Number of storeys		
Maximum of 9 Storeys with a 2-6 storey podium/street wall	No change	No change proposed to the approved 10 storey built form
1.14 View, vista and tree preservation		
Public vistas to be retained	Yes	The view corridor from the public domain down Bronte Road and Ebley Street will be retained under the modified proposal. See discussion below regarding impacts on private domain views.
1.16 Building Elevations		
• All elevations architecturally designed and contribute to the character of the street	Yes	See discussion below
• Provide openable windows	Yes	
• Facades to have relief modelling	Yes	
• Balconies recessed	Yes	
• Use solar protection elements	Yes	
1.18 Ceiling heights		

<i>Minimum floor to floor heights:</i> <ul style="list-style-type: none"> • Ground floor: 4m • First floor: 3.3m 	Partial Yes	As approved under the original application. No change is proposed under this modification application.
1.19 External Living Areas		
<ul style="list-style-type: none"> • Rooftops used to provide external living areas • Design balconies and terrace in response to local climate by locating facing predominantly north and east, using sun screens, shutters and operable walls to control light 	Yes Yes	The nominated balcony area for Unit Type 01 on Levels 3-5 is an enclosed space that is considered not conducive to passive outdoor use. It is recommended that these units be provided with an open balcony area, with any approval recommendation being conditioned accordingly
1.20 Wind mitigation		
<ul style="list-style-type: none"> • Buildings > 9 storeys, wind tunnel study is required 	Yes	An amended Wind Study has been submitted with the modification application which concludes that wind funnelling impacts are within acceptable limits

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

Urban Design and Building Envelope

The modification application proposes changes to the approved building envelope including changes to setbacks, modulation of the built form, materiality and finishes and fenestration. The applicant has submitted an urban design study prepared by B+A Architects and Urban Designers for the amended proposal, which is provided on file, however, concludes in summary *that the revisions will have no adverse impact on streetscape or building envelope*. In particular regard to the plant room revisions, the study concludes that:

While the Plant Room has not increased in height, the setback of the northern wall of the plant room from Gray Street and the setback of the eastern wall of the Plant Room from the eastern boundary have both reduced. It is noted that the Plant Room has increased in size. However, there will be no increase in overshadowing resulting from this revision as the setback of the plant room from the southern boundary is unchanged. Similarly, based on a re-examination of the View Loss Assessment, there will be no adverse impact on views enjoyed by neighbours as the extension of the plant room is predominately to the east, and along the axis of the view currently enjoyed by the nearest residents, those in Genoa Tower. Finally, the plant room will remain unseen from the public domain, as illustrated by the Bondi Junction RSL Development View from Ebley Street and Bondi Junction RSL Development View from Gray Street, attached.

An assessment of the submitted shadow diagrams indicates that there will be a minor increase in overshadowing as a result of the design amendments, but that there will also be some minor reduction in shadows as a result of building envelope changes. These modified shadow impacts are considered to be reasonable.

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

Built Form

The proposed changes do not significantly change the approved built form and its relationship with the surrounding context. The main changes on the built form are in the plant room on the top of the building, which has increased in size. However, the additional overshadowing caused by these changes is marginal.

Building Layout

Due to the modifications proposed for the internal layout, the number of apartments with natural ventilation and minimum solar access as per the ADG controls has been reduced. Even though the ADG requirements are still met, it is recommended that layout changes are further investigated in order to not reduce the levels of natural ventilation and solar access achieved by the approved DA.

Streetscape and Public Domain

The proposed modifications do not change the relationship of the building with the streetscape or public domain and are therefore accepted.

The proposed amendments to the elevations have been designed to be sensitive to the streetscape character, responding to the existing streetscape context. It is proposed to amend the materials and finishes from that originally approved. Metal cladding is to be changed throughout the development. The façade is to be finished with pre-finished fibre cement cladding and painted render in black and white. Glossed black finish brick tiles are to be used at street level. Bronze finish metal louvre screens are to be used. Glass balustrades are proposed. The proposed amended materiality and colours are considered to be acceptable.

As indicated previously in this report, the approved development had 16 of 78 or 20.5% of apartment that received no solar access. The modified development proposes to increase this to 21 apartments or 25.9%. The relevant apartments continue to take advantage of views towards the south. Whilst this is not an ideal outcome, it does not warrant a refusal of the application.

It is noted that the nominated balcony area for Unit Type 01 on Levels 3-5 is an enclosed space that is considered not conducive to passive outdoor use. It is recommended that these units be provided with an open balcony area, with any approval recommendation being conditioned accordingly. This will alter the appearance of this north and west facing elevation to provide an open balcony appearance. Modified plans and elevations will need to be submitted to Council's satisfaction.

Heritage

The sites identified as 28-42 Bronte Road are listed as Heritage items (Façade only) under WLEP (No 1171). 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, accompanied the original development application with additional advice submitted with the subject modification application. Council's Heritage Architect raised no objection to the demolition of the façade and building at 38-42 Bronte Road in the original application approved by the LEC.

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 as a result of the modified proposal on these areas is considered to be acceptable. The development, as proposed to be modified, was referred to Council's Heritage Architect who raised no objections to the amendments proposed.

Views

The objectives and strategies for public and private domain views and view sharing of the WDCP generally seek to reduce impacts on existing views and vistas from the private and public domain. The proposal has also been assessed against the Land and Environment Court's Tenacity principle for view sharing.

A View Loss Analysis prepared by Group GSA dated September 2020 has addressed view loss impacts from a number of surrounding properties including 95-97 Grafton Street (Meriton Suites), 55-91 Spring Street (Eastgate Tower) and 80 Ebley Street (Genoa Tower). View impact assessment was also undertaken during assessment of the original development application by Council officers which was deemed to not be unreasonable. It is noted that no submissions have been received during the notification of the modified application raising view loss impact as an issue. A summary of the findings of the View Loss Analysis prepared by Group GSA and submitted with the modified application is provided below:

71-85 Spring Street, Bondi Junction (Eastgate Tower)

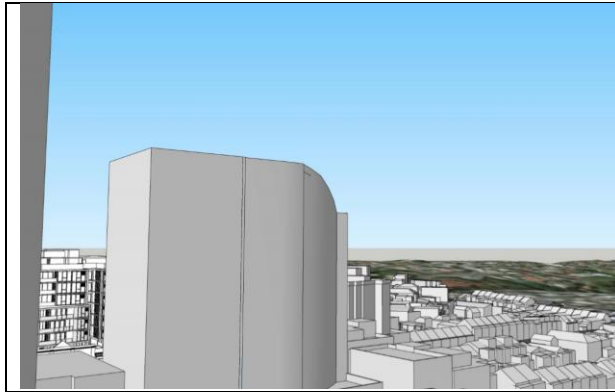


Figure 13: View towards subject site (to the far left) from RL115.75 eye level standing at mid tower level of Eastgate West Tower showing DA approved envelope (source: applicant's submission)

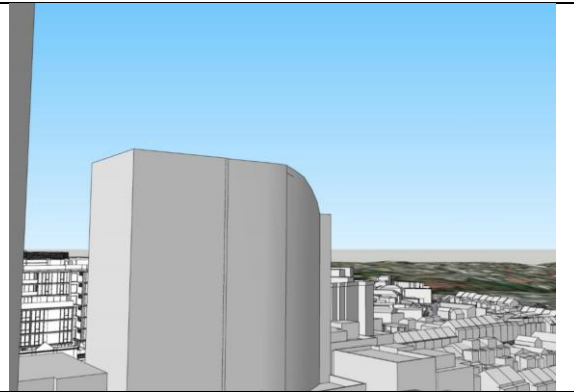


Figure 14: View towards subject site (to the far left) from RL115.75 eye level standing at mid tower level of Eastgate West Tower (west) showing modified envelope (source: applicant's submission)

80 Ebley Street, Bondi Junction (Genoa Tower)



Figure 15: View towards subject site from RL116.75 (Unit 1206 Level) showing existing view (source: applicant's submission)



Figure 16: View towards subject site from RL116.75 (Unit 1206 Level) showing proposed view (source: applicant's submission)



Figure 17: View towards subject site from RL128.37 eye level standing at Penthouse Level showing DA approved envelope (source: applicant's submission)



Figure 18: View towards subject site from RL128.37 eye level standing at Penthouse Level showing modified envelope (source: applicant's submission)

95-97 Grafton Street, Bondi Junction (Meriton Suites)



Figure 19: View towards subject site from RL115.75 eye level standing at mid tower (west) level showing DA approved envelope (source: applicant's submission)

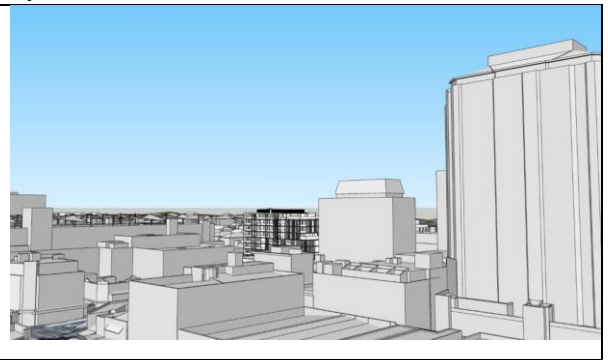


Figure 20: View towards subject site from RL115.75 eye level standing at mid tower (west) level showing modified envelope with extended plant area in black (source: applicant's submission)



Figure 21: View towards subject site from RL115.75 eye level standing at mid tower (east) level showing DA approved envelope (source: applicant's submission)



Figure 22: View towards subject site from RL115.75 eye level standing at mid tower (east) level showing modified envelope with extended plant area in black (source: applicant's submission)

The above images demonstrate that there will be no unreasonable view loss impacts from nearby properties as a result of the extended roof plant area. Accordingly, the proposed development and corresponding view sharing arrangements are considered reasonable and are an appropriate response

to the view loss controls in the WDCP and NSW Land and Environment Court Tenacity view loss planning principle. Therefore, the view loss impacts are considered reasonable and supported given the merits of the application.

3.3 Other Impacts of the Development

The approved development, as proposed to be modified, is capable of complying with the National Construction Code. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

3.4 Suitability of the Site for the Development

The site remains suitable for the approved development, as proposed to be modified.

3.5 Any Submissions

The modification application was notified for 14 days in accordance with *Waverley Community Participation Plan*. Submissions from four (4) properties were received and two (2) submissions with addresses withheld. The issues raised in the submissions are summarised and discussed below.

Table 9: Summary of property addresses that lodged a submission

Property
Llandaff Street, Bondi Junction (street number withheld)
Unit 3/8 Spring Street, Bondi Junction
Unit 1206/80 Ebley Street, Bondi Junction
265 Edgecliff Road, Woollahra
Address withheld x 2

The following issues raised in submissions have been discussed previously in this report or addressed under the original development application:

- *Height*
- *Visual outlook*
- *Outdoor Cinema*
- *Traffic and parking*
- *Overshadowing*
- *Increase in density*
- *Anti-social behaviour*
- *Noise from café/restaurant use*
- *Use of firepit to communal rooftop open space*

3.6 Public Interest

The proposal is not considered to be contrary to the public interest.

3.7 Referrals

3.7.1 Stormwater

The modified application was referred to Council's Stormwater Engineer who raised no objection to the submitted stormwater and OSD plans but has advised that detailed information is still required to be submitted to address the original conditions of consent for stormwater management and OSD. This post consent matter can be addressed at construction certificate stage.

It is recommended that a condition be imposed on the modified consent for the creation of a positive covenant for the OSD system so that it is maintained and identified on title.

3.7.2 Urban Design

The modified application was referred to Council's Urban Designer. Comments have been addressed under Section 3.2.6 of this report.

3.7.3 Waste

The modified application was referred to Council's Waste Management officer who advised that the applicant has underestimated the requirements for bulky household waste storage. For 81 units, the minimum requirement is 13m² floor space plus an additional 2m² floor space for the collection of problem wastes such as electronic waste or textile wastes – which can be collected through a separate council service. The applicant responded by advising that the plans demonstrate a volume of 12.1m³ and area of 4.1m² which is larger than what was approved under the original DA.

Notwithstanding, the applicant is still required to comply with Condition 56 of the development consent in regards to the provision of adequate waste storage facilities being provided in accordance with WDCP as this application has not sought to modify this condition. This can be dealt with as a post consent matter.

3.7.4 Traffic

The modified application was referred to Council's Traffic Engineer who raised no objections.

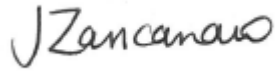
3.7.5 Tree Management officer

The modified application was referred to Council's Tree Management officer who raised no objections subject to conditions.

4. RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL

That the Section 4.56 Modification Application be **APPROVED** by the Sydney Eastern City Planning Panel subject to the modified conditions in Appendix A and full list of conditions in Appendix B.

Report prepared by:



Jo Zancanaro
Senior Development Assessment Planner

Date: 1 April 2021

**Application reviewed and agreed on behalf
of Waverley Council's Development and
Building Unit by:**



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

Date: 9 April 2021