

## ADDENDUM REPORT

Panel Reference	PPSSEC-36
DA Number	DA-125/2012/C
LGA	Waverley Council
Proposed Development	Section 4.55(2) modification to roof design, ground floor entry, façade stairwell, and increase in height, extension of basement parking and penthouse reconfiguration.
Street Address	20 Illawong Avenue, Tamarama
Applicant/Owner	Proprietors of Strata Plan 1731
Report prepared by	Kylie Lucas, Senior Development Assessment Planner, Waverley Council
Addendum to Report date	25 August 2020

### 1. BACKGROUND

At the Sydney Eastern City Planning Panel (SECPP) meeting of 21 May 2020, the Panel resolved to defer this application for 3 months to allow the applicant to provide additional information and for the application to be referred to the Waverley Design Excellence Advisory Panel (DEAP).

The deferral matters of the Panel are outlined under section 2 of this report.

The required additional information was received by Council on 10 June 2020 and was considered by the Waverley Design Excellence Advisory Panel (DEAP) at the meeting of 17 June 2020. The DEAP resolved that further design refinement and information was required as follows:

- *Further consideration should be given to the visual character and presentation of the penthouse design from key vantage points within the public domain – in line with the previous DA documentation (visual analysis and photomontages in their context).*
- *There is a need for further design resolution in detailing of the proposed roof edge in order to achieve a lighter appearance (thin profile edge), and consideration of the soffit and options for the batten treatment.*
- *Appearance of the penthouse roof parapet needs to be clearly assessed in the visual appraisal to ensure it does not compromise the quality of the outcome. It must be demonstrated that the wave form is capable of concealing the parapet from distant views of the roof.*
- *Further information needs to be provided on the Telco tower, including any options for how it could be a better visual outcome that would not diminish the design quality intended.*
- *The Applicant must demonstrate that the additional height being sought is necessary to achieve services and functionality of the Penthouse roof.*
- *The proposal requires amendments to be reviewed by the Design Excellence Advisory Panel in order to meet the design principles of SEPP 65 and/or achieve design excellence.*

Further amended plans/documentation were received by Council on 14 July 2020 and were considered at the DEAP meeting of 22 July 2020. The amended design includes continuing the wave profile of the roof to the western elevation, rather than solely on the eastern side. These plans form the subject of the assessment within this addendum report.

## **2. DEFERRAL MATTERS OF THE SECPP**

The deferral matters listed by the SECPP at the meeting of 20 May 2020 are following with a comment from the Council Assessment Officer provided below each matter:

***The applicant needs to undertake a Visual Impact Assessment comparing the approved development versus the proposed one in this modification; taken from a number of key vantage points, both East and West and needs to have regard to the visual impact assessment provided for in the 2012 development application (including photomontages showing sight lines).***

**Comment:** The applicant has provided additional photomontages/renders which were provided to the DEAP.

***The modification application should be referred to the Design Excellence Review Panel for considered advice to this Panel as soon as possible.***

**Comment:** As detailed in Section 1 of this report, the modification was referred to the Waverley DEAP on two occasions in order to satisfy the DEAP's request for further information and design refinement. The Waverley DEAP advised that the material provided by the applicant addresses the outstanding matters raised by the Panel. In this regard, the DEAP are supportive of the design.

***The Panel notes the application was submitted incomplete and key information required for our determination should be submitted to Council for consideration, including a BASIX certificate and design verification certificate signed off by a registered architect.***

**Comment:** The applicant has provided the outstanding information including a BASIX Certificate and Design Verification Certificate.

***The Panel requests a further assessment report which takes into account the above material and has attached to it supporting information relied upon by the applicant which justifies the changes including, but not limited to a wind report.***

**Comment:** A wind report has been provided which concludes:

*Cermak Peterka Petersen Pty. Ltd. has provided a qualitative assessment of expected environmental wind conditions for proposed new balconies and terraces on 20 Illawong Avenue. Reasonably amenable conditions are expected for the majority of the residential balconies, considering the coastal location and local topography. Advice for mitigation has been provided to improve conditions where appropriate, in particular near the building corners and on the larger Level 08 terraces. Design wind pressures suitable for the design of façade cladding and ancillaries have also been provided, including generic advice on wind-related noise issues.*

***The Panel requests that a different assessing officer undertakes the new assessment report and that it be undertaken by a senior planner.***

**Comment:** This is outside of the proper functions of the SECPP. The decision as to which council staff member prepares the assessment report for any determination body is a function for the council to determine. However, Council's Executive Manager Development Assessment has reviewed this assessment report and fully concurs with the assessment.

***The Panel requests for an alternative design be prepared to demonstrate the retention of the roof as originally approved, albeit at a higher level.***

**Comment:** Plans were submitted to address this matter however the following advice is provided by the Applicant in relation to these plans:

*Plans are submitted in response to the SECPP comments, providing a comparative design that shows the raised penthouse floor level, but retains the approved, non-preferred roof forms. These plans do not form part of the proposal and are for information purposes only. No changes are proposed to the plans already considered by the DEAP. The concerns in relation to non-compliant ceiling heights are not overcome by this alternative scheme.*

### **3. ASSESSMENT OF MODIFICATION PROPOSAL**

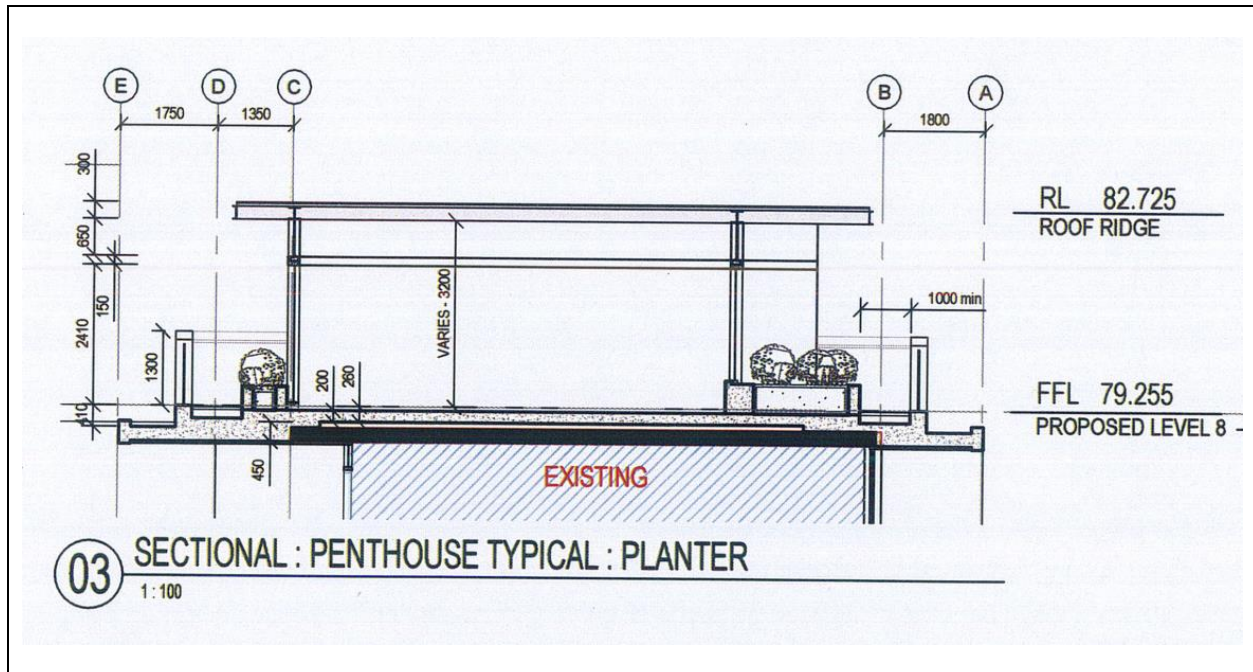
The assessment within the original report remains relevant to the subject development with detailed discussion provided in relation to the issues. Council's assessment officers remain of the strong view that this proposal is not supportable, not in the public interest and will result in a further exacerbation of what is unarguably a significant overdevelopment of the site.

The Environmental Planning & Assessment Act outlines the matters that must be taken into consideration in the assessment of an application for development. The relevant development standards of the LEP and development controls of the DCP are prescribed matters that must be taken into consideration in the assessment of this modification application.

#### **Variation to FSR Development Standard**

The proposed modifications will result in an increase in gross floor area (GFA) of 209.5m<sup>2</sup> resulting in an FSR of 1.66:1 (GFA of 6614.5m<sup>2</sup>) increasing the variation to the FSR development standard to 4061.5m<sup>2</sup> or 170%.

The penthouse apartments are already excessively large with more than double the minimum required floor space for a unit of this type and provide sufficient height to satisfy the Apartment Design Guide of SEPP 65. The original plans approved under DA-125/2012 show a domed roof with floor-to-ceiling height ranging from 2.41m at the lowest point to 3.2m at the highest part of the dome (refer to Figure 1).



**Figure 1:** Extract from approved plans

### **Variation to Height Development Standard**

The application proposes a further increase in height.

Of relevance in this application is the fact that the existing building on the site at 24.4m, already exceeded the maximum allowable height development standard for this area by more than double - 14.9m or 156%. Whilst the original building was constructed many years ago, it stands as an anomaly in this area with no other buildings of a similar height.

The approval of the original development application for an additional level (the penthouse) by the then JRPP in 2012, allowed for a further increase in height of the existing building by 2.8m providing a building with a height of 27.2m or 186% above the applicable height maximum.

This current proposal seeks to further increase this already substantial variation by a further 1.4m. This will result in a building that exceeds the maximum allowable height development standard under Waverley LEP by a total of 19.5m or 202%.

The application seeks this height increase in two areas – increased separation between existing roof slab and new floor slab for the penthouse and increased internal ceiling height for the penthouse.

The Building Code of Australia (BCA) requires a ceiling height of 2.4m for at least 2/3 of the room for habitable rooms (or an alternative solution). Lower ceiling heights are allowed for non-habitable rooms (including bathrooms and laundries) under the BCA and the ADG. Raising the slab by 215mm would lower the approved ceiling height of the penthouse apartments to 2.2m at the lowest point and 2.985m at the highest. These ceiling heights continue to comply with the BCA and the ADG. The increased height is not a building requirement under any legislation and given the already significant height of this building, the increase is not warranted.

The supporting information states the following as an argument that the additional increased height is necessary:

*Having determined the new Level 8 floor slab had to be raised to accommodate existing constraints, new structure and new design (non-level roof, vent pipe off-sets, and increased slab thickness), our attention was drawn to the available ceiling height. SEPP 65 recommends a ceiling height in Living areas of a minimum of 2700mm. The approved vaulted design would have created a low point in the vault through the middle of the living room. As the design is all about maximising the view outlook, the full eastern frontage needed to have maximum available ceiling height across the full eastern frontage to maximise the amenity and opportunity of the penthouse design. A low point of any vaulted ceiling less than 2700 would not yield the return on the development to make this upgrade viable. Hence, the design team sees a modest increase in floor to ceiling height, removal of the vaulted ceiling and a proposed new roof form as an improved outcome for the project with little consequence or compromise to the amenity of the surrounds. To the contrary, we consider the proposed new design as a significant improvement.*

Increasing development yields and maximising view outlook, particularly where the development already has panoramic views, are not considered a reasonable justification for increasing height and FSR where the development already substantially exceeds these standards and are also not matters for consideration under section 4.15(1) of the EP&A Act.

The applicant states that the original application did not adequately consider existing building conditions including roof services. Whilst this may or may not be the case, the applicant must bear some responsibility for providing an accurate original development application especially as it relates to height which is 186% above the maximum allowable height in WLEP.

The original application for which consent was granted by the JRPP in 2012 purported to provide a habitable level at a height that allowed for services and that met the relevant legislative requirements related to health and amenity for a residential unit. It was on this basis that the approval was granted.

It is disingenuous to now state that the height of the new level was underestimated in the original DA because the applicant had not obtained proper expert advice related to services on the existing roof and slab separation. The consent authority was reasonably entitled to rely on the information provided by the applicant as accurate and true when it assessed the original application (which was recommended for refusal) and made the determination to approve the application.

The second explanation put forward by the applicant relates to the provision of improved amenity to the penthouse that would arise from increasing the internal ceiling height.

The approval of the penthouse in the original DA resulted in a building that exceeded the maximum height in WLEP by 186%. The internal amenity for the penthouse was considered satisfactory in this application. There is no proper planning justification that providing greater amenity to the penthouse level is reasonable in circumstances where the building already substantially exceeds the maximum height standard. This would create an undesirable precedent and would not be in the public interest.

The justification now put forward by the applicant to increase the height is not supported.

**4. RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL**

That the Section 4.55 Modification Application be **REFUSED** by the Sydney Eastern City Planning Panel for the reasons contained within the original report:

**Report prepared by:**



Kylie Lucas  
**Senior Development Assessment Planner**

**Date: 19/08/2020**

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



Mitchell Reid  
**Executive Manager, Development Assessment**

**Date: 25/08/2020**