

Waverley Council  
55 Spring Street,  
Bondi Junction NSW

Urban & Co. Design Pty Ltd  
4/5 Ormond Gardens,  
Coogee NSW 2034

**Development Application DA483/2018**  
**163 Birrell Street, Waverley**

I refer to the Development Application (DA483/2018) located at 163 Birrell Street, Bondi Junction for the following development:

**Demolition of existing structures, construction of new bowling club and greens, seniors living development (including 90 units, swimming pool and gym) childcare centre (for 76 children) and associated basement carparking and landscaping**

Urban & Co. has been engaged to undertake an assessment of the proposal and provide a submission based on the areas of non-compliance as well as the areas of contention.

Please see below the comments and suggestions that Urban & Co. has put forward for your consideration.

Thomas Ellwood  
Director | Town Planner

## PLANNING ISSUES:

### 1. Aims of Plan:

Waverley Local Environmental Plan 2012 (WLEP2012)	Compliance
<i>(a) to promote and co-ordinate a range of commercial, retail, residential, tourism, entertainment, cultural and community uses to service the local and wider community,</i>	<b>Does not Comply.</b> The proposed development will be increasing the mix of commercial uses within this area significantly. Resulting in the loss of amenity, carparking spaces and privacy to the adjoining residential units.
<i>(b) to maintain and reinforce Bondi Junction as the primary commercial and cultural centre in Sydney's eastern suburbs,</i>	<b>Not applicable to this application.</b>
<i>(c) to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community,</i>	<b>Does not Comply:</b> The proposed development will be seriously increasing the residential density of the existing streetscapes of Birrell, Langlee and Henrietta. The result of this action will be felt throughout the immediate area and will create a number of ongoing lifestyle issues for residents.
<i>(d) to provide an appropriate transition in building scale around the edge of the commercial centres to protect the amenity of surrounding residential areas,</i>	<b>Does not Comply.</b> As identified within the Clause 4.6 Variation and the proposed building height does not comply. The scale of the new development will be outrageously greater than what is allowable within the zone as well as the immediate context of the area. It is requested that serious consideration is given by Council to the cumulative impacts of this development.
<i>(e) to protect, maintain and accommodate a range of open space uses, recreational opportunities, community facilities and services available to the community,</i>	<b>Does not Comply:</b> As seen within the plans provided, there will be a decrease in the recreational opportunities of the Waverley bowling Club.
<i>(f) to enhance and preserve the natural environment through appropriate planning, protecting the integrity of natural systems and by protecting existing trees,</i>	<b>Does not Comply:</b> The landscape plan provided with this application demonstrates that the deep soil landscaping does not comply. The proposed development is for demolition of all structures, therefore as it is a blank canvas there is no

	reasonable excuse that the development should not comply with this, other than over development.
<i>(g) to identify and conserve the cultural, environmental, natural, aesthetic, social and built heritage of Waverley.</i>	<b><i>Does not Comply:</i></b> The aesthetics of Birrell Street, Langlee Avneue and Henrietta Street will be dominated with bulk and out of character buildings. Therefore, a reduction is requested.

**Response:** As indicated by the WLEP2012, Objective d, e, f and g the proposed development does not comply with nearly all of the aims set out by Waverley council. These objectives state that development should minimise the impacts to the surrounding sites and protect the amenity of the area. The proposed development is not in keeping with the aims of the WLEP2012, the following reasons and justifications have been put forward:

- There is no transition between building scales, with the extremely high building height being proposed a significant impact will be generated on the Waverley area and more specifically the adjoining sites.
- The open space that the streetscape and surrounding areas currently poses will be removed as a result of this development. The existing recreational area will be diminished and reduce the availability of recreational areas to the community.
- The proposed development is a huge 'over development', meaning that the preservation of the natural environment will be severely impacted on.
- The proposed development is not consistent with the cultural, environmental, natural and social elements of Waverley, issues such as overshadowing, car parking, street congestion demonstrate this.

Overall, it can be identified that the proposed development is not in keeping with the aims of the WLEP2012 and provides a number of large issues that will impact the immediate and broader area.

**2. Objectives of Zone:**

Waverley Local Environmental Plan 2012 (WLEP2012) – RE2 Private Recreation	
<i>1 – Objectives of Zone</i>	<b><i>Does not Comply</i></b>
• <i>To enable land to be used for private open space or recreational purposes.</i>	<b><i>Does not Comply:</i></b> The proposed development is seeking to take away this opportunity
• <i>To provide a range of recreational settings and activities and compatible land uses.</i>	<b><i>Does not Comply:</i></b> The development is seeking to grossly over development the existing site
• <i>To protect and enhance the natural environment for recreational purposes</i>	<b><i>Does not Comply:</i></b> There are a number of examples of how the proposed development does not comply with this, including landscaping, loss of amenity etc.

**Response:** The proposed development does not comply with the objectives of the SSLEP2015. As seen in the above table, the objectives of the Private Recreation Zone are to ensure that areas of Waverley have private recreation opportunities and to also protect and enhance the natural environment. The proposed development in turn will:

- Overpower the existing character of Birrell Street;
- Considerably reduce the amenity of the adjoining neighbours as well as the streetscape of Birrell Street;
- Increase the cumulative impact of multi-dwelling housing within Birrell Street;
- Reduce the private open space and recreational areas for residents

The approval of this Development Application, as indicated in the points listed above will create a negative effect on the existing streetscape and the residential areas in the immediate location.

### 3. Building Height:

#### Waverley Local Environmental Plan 2012 (WLEP2012) – Clause 4.3 Building Height

Aims of plan:

*(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.*

**Response:** The proposed building height for the new development is **23.35m**, the maximum allowable building height according to the WLEP2012 is 8.5m. This means that the proposed development is seeking to exceed the maximum allowable building height by **15.05m (277%)**.

In addition to the proposed development not complying with the development standard of 8.5m, it also does not comply with the objectives of Clause 4.3 (Height of Buildings). The proposed building height as it stands will significantly impact the adjoining sites as well as the streetscapes of Birrell Street, Henrietta Street and Langlee Avenue.

In particular, objective ‘d’ states the buildings are to be 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. The proposed development does not achieve this with the non-compliance of 15.05m meaning all adjoining sites will be severely impacted on, the integration of the proposed development will not occur with the streetscape and the bulk and scale of such a development will create a negative impact.

**Clause 4.6 Variation:**

A clause 4.6 variation has been lodged to vary this development standard. A clause 4.6 variation must demonstrate:

1. *That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
2. *That there are sufficient environmental planning grounds to justify contravening the development standard.*

EXCEPTIONS TO DEVELOPMENT STANDARDS		
<b>4.3</b>	(1)	<p><i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</i></p> <p style="padding-left: 40px;"><i>A. That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i></p>
		<p><i>Does not Comply: The proposed development does not provide any justification that warrants a variation of the building height. Clause 4.6 states that meeting compliance needs to be unreasonable or unnecessary for the particular development. As seen in the proposed design, the variation does not have any reason not to comply with the controls, other than over development. The proposed development is for a site that will be a blank canvas.</i></p>

		<i>B. That there are sufficient environmental planning grounds to justify contravening the development standard.</i>	
	(2)	<p><i>Development consent must not be granted for development that contravenes a development standard unless:</i></p> <p><i>1. The consent authority is satisfied that:</i></p> <p><i>2. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and</i></p> <p><i>3. The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,</i></p>	<p><i>Does not Comoply: The proposed development will not be in the piublic interest due to:</i></p> <ul style="list-style-type: none"> <li>- <i>Loss of on street parking;</i></li> <li>- <i>Loss of amenity;</i></li> <li>- <i>Unreasonable Increased traffic volumes;</i></li> <li>- <i>Substantial bulk and scale</i></li> </ul>

As the proposed development is for the demolition of existing structures, it presents as a blank canvas. Therefore, there is no reason that the proposed development shouldn't meet the building height as set out in the WLEP2012, any development over this can therefore be determined as over development.

**4. Site compatibility certificate:**

The Site Compatibility Certificate that has been provided with the development application package was for the previous development application that was submitted for the subject site. Therefore, it is requested that the most up to date version be lodged with this application.

#### 5. Deep Soil Landscape Zone:

##### Waverley Local Environmental Plan 2012 (WLEP2012)

Controls:

*(d) Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

The proposed development is seeking a non-compliance with the deep soil landscaped area. As stated previously within this report, as the proposed development will be a blank canvas there is no reason for a non-compliance like this, other than over development. For this reason, it is requested that the design is amended to reflect compliance with the landscaping controls.

#### 6. Increased parking impacts

There has been a number of car parking impacts identified as a result of the proposed development. Birrell Street, Langlee Avenue and Henrietta Street all currently have congestion and parking issues. The proposed development will further intensify these congestions issues as an additional 298 vehicles will be added to the congestion. The following photos identify the current congestion of the immediate area:



**8.30am Victoria Street from Henrietta 4/2/19**



**4/2/19 7.44am Birrell Street**



**4/2/19 7.45am Birrell Street looking west – there was a green light but no cars were moving.**

It is considered that the amount of car parking space provided will dramatically impact the flow of traffic within the area. With the over development of the height and the non-compliance with the deep soil landscaping it is requested that the design be amended to reduce the overall height of the development to reduce the need for as many car parking spaces.

**7. Shadowing of building**

Overshadowing of the adjoining sites has also been identified as being an issue resulting from this proposed development. As indicated by the shadow diagram provided with the submission package, there will be a significant increase to the overshadowing of the adjoining sites. The shadowing would be significantly reduced if the proposed development met compliance of clause 4.3 Height of Buildings as set out by the WLEP2012.

As the proposed development is providing such a non-compliance with the building height, a unreasonable amount of overshadowing will result from this development.

**8. Loss of on street Car Spaces**

The proposed development will be taking 8 on-street car parking spaces away as a result of the development. Currently the car parking opportunity within Birrell Street, Henrietta Street and

Langlee Avenue are minimal, with all ours of the day presenting limited opportunity. It is requested that an alternate design be submitted that does not impact on the on-street parking spaces. This will likely involve the reduction of the overall size of the development.

**Conclusion:**

The environmental impacts generated by this proposal, whether considered individually or cumulatively in the context of the site and broader area, are significant and raise a number of issues, therefore the application does not warrant the support of Council and the issue of development consent.

In general, the development proposals of this particular site are not acceptable, as it competes with the integrity or character of the surrounding area.