

Section 4.55(2) Application for Modification (DA-482/2017)

59-75 Grafton Street, Bondi Junction



Section 4.55(2)

Statement of Environmental Effects to Waverley Council

Prepared on behalf of Clygen Pty Ltd

August 2020 | 15082

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1.0 Introduction

This Statement of Environmental Effects (**SEE**) by Robinson Urban Planning Pty Ltd (**RUP**) is submitted to Waverley Council (the **Council**) on behalf of Clygen Pty Ltd (the applicant and landowner). It describes a Section 4.55(2) application that proposes modifications to the development consent for DA 482/2017 which approved the following development at 59-75 Grafton Street, Bondi Junction (**the site**):

Demolition of existing commercial building and construction of 19 storey mixed use building comprising ground level retail and residential apartments above

The Original Consent was approved by the Sydney Eastern City Planning Panel on 2 May 2019.

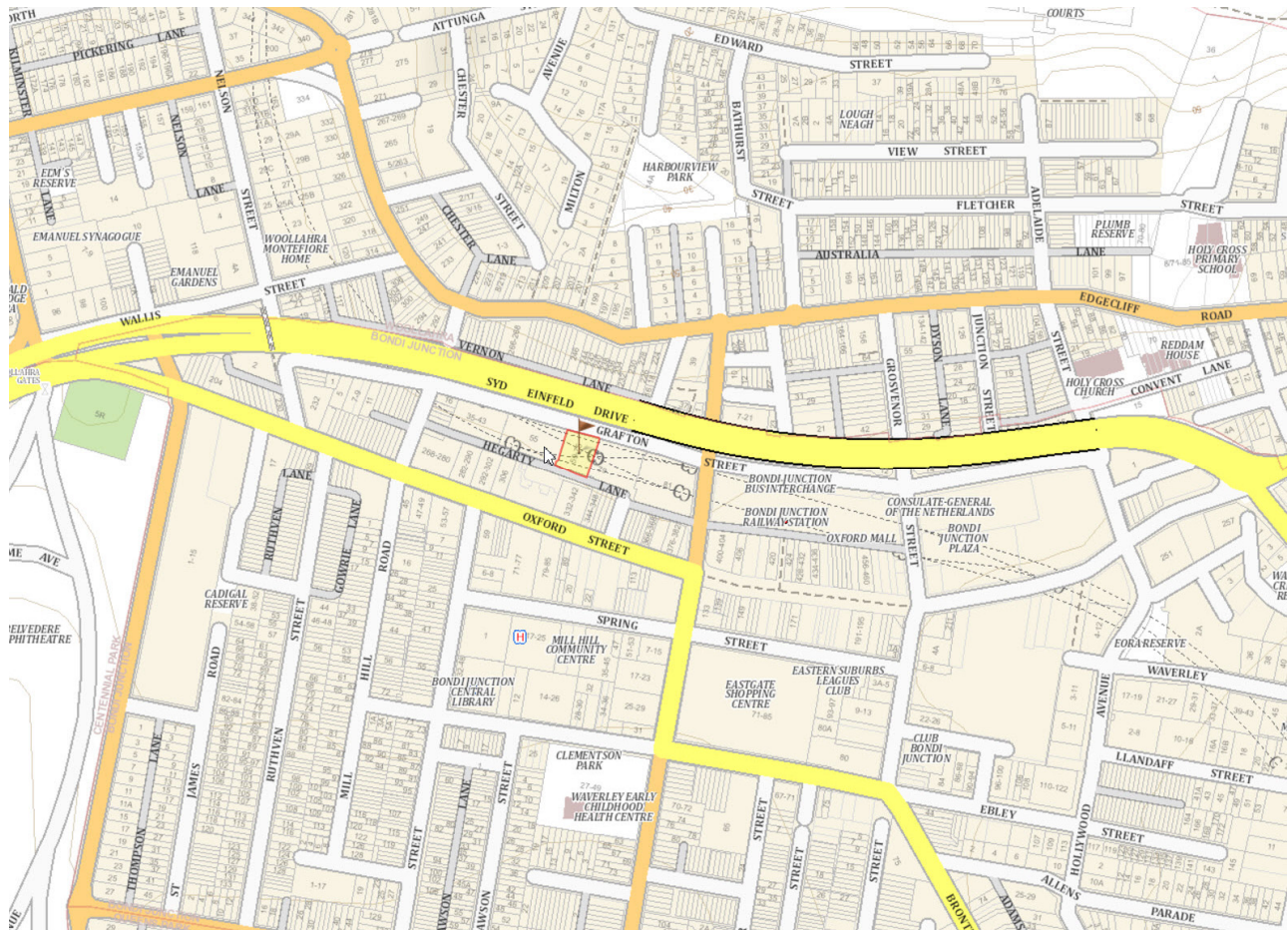
The Section 4.55(2) Proposal described in this SEE proposes the following modifications:

1. Two additional residential levels (19 storeys approved, 21 storeys proposed)
2. 13% of additional gross floor area (**GFA**) which equates to:
 - (a) 1,010.7m² of additional GFA (7,683.4m² approved, 8,694.1m² proposed)
 - (b) 0.79:1 increase in floor space ratio (**FSR**) (6:1 approved, 6.79:1 proposed)
3. Minor envelope changes including:
 - (a) One additional storey to the Hegarty Lane podium
 - (b) Northwards extension of part of the envelope at the Lower Ground, Upper Ground, Level 6 and above
4. Seven additional apartments (78 approved, 85 proposed)
5. Minor changes to the upper ground floor non-residential floor plan including an increase in non-residential GFA (475.8m² approved, 506.1m² proposed)
6. Minor façade changes throughout
7. Minor change to the roof terrace design
8. 11 additional bicycle parking spaces (89 approved by condition, 100 proposed).

The Section 4.55(2) Proposal does not change the approved number of parking spaces; vehicular access arrangements; east, west or south boundary setbacks; or the overall appearance of the approved architectural design.

This SEE identifies the Original Consent and describes and assesses the Section 4.55(2) Proposal. It is accompanied by a completed form, the application fee and the following plans/information:

- Council's pre-DA letter of advice (dated 27 July 2020) for PD-24/2020
- Modified Architectural Plans, photomontages, schedules, shadow diagrams and notification plans (13 August 2020), by Cottee Parker
- Comparison Plans (12 August 2020), by Cottee Parker
- SEPP 65 Design Report (14 August 2020), by Cottee Parker
- Modified Landscape Plans (July 2020), by Umbaco
- BASIX Report, Stamped Plans and Certificate (17 August 2020), by Windtech
- DTS Section J Report (16 July 2020), by Windtech
- Pedestrian Wind Statement Memo (16 July 2020), by Windtech
- A Voluntary Planning Agreement letter of offer from Clygen (3 August 2020)
- Site Waste Management Plan (Version C, 14 August 2020), by Senica
- Structural Design Statement for Section 4.55 (28 July 2020), by TTW.



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Figure 1 – Site location plan (Source: Six Maps)

2.0 Site description and background

2.1 Overview

The key characteristics of the site are summarised below:

Location	<p>The site is located at 59-75 Grafton Street, Bondi Junction (Figures 1 and 2). It is located on the north-western fringe of Bondi junction, approximately 120m to the west of the Bondi Junction Transport Interchange. The interchange provides linkages to a range of local and regional destinations.</p> <p>The site is bounded to the north by Grafton Street and to the south by Hegarty Lane. The elevated Syd Einfeld Drive is 20m further north. Oxford Street is approximately 50m south of the site (with intervening mixed use buildings).</p>
Legal description	Lot 2 DP 1073913
Site area	1,281m ²
Zoning	Pursuant to WLEP 2012, the site is in Zone B4 – Mixed Used.
Frontages	<p>– Grafton Street to the north: 32.505m</p> <p>– Hegarty Lane to the south: 33.375m</p>
Existing use	<p>The site is occupied by a nine storey office building which reaches RL 97.34 to the roof top plant room and has a height of approximately 29m. It has 76 car parking spaces accommodated in three above ground parking levels (including a half basement parking level). Vehicular access to the site is via Grafton Street (one driveway) and Hegarty Lane (two driveways).</p>
Heritage	<p>The site is not a heritage item. The following heritage items, listed at Schedule 5 of WLEP 2012, are in the vicinity of the site:</p> <p>– I215 - Facade group only, 304–330 Oxford Street</p> <p>– I216 - Facade group only, 356–374 Oxford Street</p>
Topography	There is a 3m change in level between the site's frontage to Hegarty Lane (south) (RL 68.5) and Grafton Street (north) (RL 65).
Vegetation	There is no significant vegetation on the site. A large plane tree in the footpath to Grafton Street adjoins the site and will be retained.
Covenants/easements	<p>The site is burdened by the following covenants/easement:</p> <p>A Right of way and easement for electricity</p> <p>B Substation premises</p> <p>C Easement for transit (in Stratum).</p>
Eastern Suburbs Railway tunnel	The Eastern Suburbs Railway tunnel is located beneath the site (Lot 2 DP 1073908).

Context

- North: Syd Einfeld Drive (which is an elevated road way) is to the north of the site. It presents a high blank wall to Grafton Street.
- South: Mixed use development is to the south of the site, beyond Hegarty Lane. This area is undergoing change with a number of recently constructed, approved and proposed shop-top housing developments along Oxford Street. Building heights range from seven to 14 storeys and the height standard is 38m. To the immediate south, beyond Hegarty Lane are 310-330 Oxford Street (a new shop top housing development) and 332 Oxford Street (a commercial building mooted for redevelopment). A through site link at 310-330 Oxford Street connects Oxford Street and Hegarty Lane.
- East: Two residential flat buildings (18 and 20 storeys) are to the east of the site at 79 and 81 Grafton Street. The apartments sit above a podium containing resident and public car parking. The roof of the podium accommodates resident communal open space including a swimming pool and gardens.
- West: 45-57 Grafton Street is to the west. It accommodates an eight storey office building. DA/155-2018 was granted deferred commencement consent by the Sydney Eastern City Planning Panel on 19 December 2019 for demolition of the existing building and construction of a new 19-20 storey mixed use building with basement parking on this land. A Section 4.55(2) application is being prepared to add additional storeys to the approved development at 45-57 Grafton Street.



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Figure 2 – Aerial photograph of the site (Source: Six Maps)

2.2 Original consent

The Original Consent is described below:

Property description	59-75 Grafton Street, Bondi Junction NSW 2022
Lot/DP	Lot 2 DP 1073913
Site area	1,281m ²
Application reference	DA
Approved development	Demolition of existing commercial building and construction of 19 storey mixed use building comprising ground level retail and residential apartments above
Date from which consent operates	2 May 2019
Consent authority	Sydney Eastern City Planning Panel

3.0 Pre-lodgement consultation

The applicant and its consultant team attended a pre-lodgement meeting with Council via video conference on 20 July 2020 (PD-24/2020). The pre-lodgement scheme presented by the applicant proposed three additional levels and an additional GFA of 1,154m² or 15%.

Council's pre-lodgement meeting advice (dated 27 July 2020) (see attached) sets out the relevant planning controls and advised that:

- A maximum of two additional levels would be supported. Three additional levels will not be supported
- 15% additional floor space is not a right and may not be achievable on this site
- Additional floor space will only be considered subject to a planning agreement and where it can be demonstrated that amenity impacts upon surrounding properties, the streetscape and the locality are not excessive
- Relevant to additional floor space located at the lower levels of the building, further consideration will be given subject to detailed reports, plans and/or diagrams considering view impacts, privacy and overshadowing and a streetscape analysis in Hegarty Lane
- Although arcades and through-site links are encouraged on other sites, the site is not nominated in the development control plan as requiring a through-site link. There is potential to provide additional commercial floor space at the ground floor level
- There is potential to reduce the amount of parking provided on site, given that the minimum amount of parking required is nil for the residential component of the development. This would allow above ground floor space which is currently used for parking to be converted to commercial or residential floor space.

In response to this advice, the design was amended and the Section 4.55(2) Proposal now seeks consent to modify the development as follows:

- Increase the height by two additional levels
- Increase the GFA by 13%.

The impact of these modifications (including view impacts, privacy and overshadowing) is assessed at Section 6.2.

4.0 Proposed modifications to the approved plans

4.1 Overview

Consistent with Council's Planning Agreement Policy, the Section 4.55(2) Proposal seeks consent to modify the Original Consent to increase the FSR of the development by 13% and including the following modifications:

1. Two additional residential levels (19 storeys approved, 21 storeys proposed)
2. 13% of additional GFA which equates to:
 - (a) 1,010.7m² of additional GFA (7,683.4m² approved, 8,694.1m² proposed)
 - (b) 0.79:1 increase in floor FSR (6:1 approved, 6.79:1 proposed)
3. Minor envelope changes including:
 - (a) One additional storey to the Hegarty Lane podium
 - (b) Northwards extension of part of the envelope at the Lower Ground, Upper Ground, Level 6 and above
4. Seven additional apartments (78 approved, 85 proposed)
5. Minor changes to the upper ground floor non-residential floor plan including an increase in non-residential GFA (475.8m² approved, 506.1m² proposed)
6. Minor façade changes throughout
7. Minor change to the roof terrace design
8. 11 additional bicycle parking spaces (89 approved by condition, 100 proposed).

The Section 4.55(2) Proposal does not change the approved number of parking spaces; vehicular access arrangements; east, west or south boundary setbacks; or the overall appearance of the approved architectural design.

Table 1 provides a numerical comparison the Original Consent and the Section 4.55(2) Proposal.

The modified Architectural Package, Comparison Plans (showing the Original Consent and the Section 4.55(2) Proposal by level and elevation) and modified Landscape Plans are attached.

Figures 3 and 4 compare the Grafton Street and Hegarty Lane elevations of the development approved by the Original Consent and the Section 4.55(2) Proposal.

4.2 Preliminary offer to enter into a planning agreement

This SEE is accompanied by a preliminary offer to enter into a planning agreement (see attached). Subject to discussions with Council, the public benefits offered by the applicant could include:

- Works in kind to enhance local infrastructure (such as Grafton Street and/or Hegarty Lane) to increase activation and pedestrianised amenity
- Monetary contribution towards the embellishment of nearby public open spaces, parks and pedestrian spaces
- Monetary contribution towards the provision of affordable housing in Bondi Junction Town Centre or the broader locality
- Monetary contribution towards other works identified in the Waverley Council Development Contributions Plan 2006.

Table 1 – Key numerical information – Original Consent and Section 4.55(2) Proposal

	Original Consent	Section 4.55(2) Proposal	Proposed change
Site area (m²)	1,281	No change	
Apartments			
– Studio	10 (13%)	7 (8%)	
– One bedroom	25 (32%)	27 (32%)	
– Two bedrooms	30 (38%)	36 (42%)	
– Three bedrooms	13 (17%)	15 (18%)	
– Total units	78	85	+ 7 (+9%)
GFA (m²)			
– Commercial/retail	475.8 (6%)	506.1 (5.8%)	
– Residential (including residential stores and circulation)	7,207.6 (94%)	8,188.0 (94.2%)	
Total GFA	7,683.4	8,694.1	1,010.7
FSR	6:1	6.79:1	+13%
Height			
– Building height - WLEP 2012 to top of plant (metres)	65.1m	71.3m	+6.2 (+9.5%)
– Storeys (including Upper & Lower Ground)	19	21	+2
Communal open space (m²)			
– Total	320	341	+20
– % site area	25%	26%	
Parking			
– Car parking total	84	No change	
– Car share	1	No change	
– Loading	2	No change	
– Motorcycle parking	6	No change	
– Bicycle parking spaces	89	100	+11

ORIGINAL CONSENT



AERIAL VIEW FROM NORTH EAST - APPROVED DA

SECTION 4.55(2) PROPOSAL



AERIAL VIEW FROM NORTH EAST - PROPOSED

Figure 3 – Grafton Street Elevation: Comparison of the Original Consent and Section 4.55 Proposal (Source: Cottee Parker, DA2700)

ORIGINAL CONSENT



VIEW FROM HEGARTY LANE - APPROVED DA

SECTION 4.55(2) PROPOSAL



VIEW FROM HEGARTY LANE - PROPOSED

Figure 4 – Hegarty Lane Elevation: Comparison of the Original Consent and Section 4.55(2) Proposal (Source: Cottee Parker, DA2702)

5.0 Modifications to the conditions of consent

The Section 4.55(2) Proposal seeks consent to modify Conditions 1, 2, 31 and 36 in the Notice of Determination for DA-482/2017 as set out below (showing deleted words in ~~strike through~~ and new words in red).

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by Cottee Parker JPRA including the following:

Drawing No.	Drawing Name	Drawing Revision & Date	Drawing (Plot) Date
DA0000	COVERPAGE	B-01/08/18 F 13/08/2020	26/10/18 13/08/2020
DA1100	Site Plan	E-01/04/19 E 13/08/2020	07/12/18 13/08/2020
DA2100	Lower Ground Floor Plan	E-01/04/19 L 13/08/2020	03/04/19 13/08/2020
DA2101	Upper Ground Floor Plan	E-01/04/19 J 13/08/2020	03/04/19 13/08/2020
DA2102	Level 1 Plan	E-01/04/19 I 13/08/2020	29/03/19 13/08/2020
DA2103	Level 2 Plan	E-01/04/19 I 13/08/2020	29/03/19 13/08/2020
DA2104	Level 3 Plan	E-01/04/19 I 13/08/2020	29/03/19 13/08/2020
DA2105	Level 4 Plan	E-01/04/19 J 13/08/2020	29/03/19 13/08/2020
DA2106	Level 5 Plan	F-02/04/1 I 13/08/2020	02/04/19 13/08/2020
DA2107	Level 6 Plan	D-01/04/19	29/03/19 13/08/2020
DA2108	Level 7 Plan	D-01/04/19	29/03/19 13/08/2020
DA2109	L8, L10, L12, L14, L16 Plans L6, L8, L10, L12, L14, L16, L18 Plans	D-01/04/19 I 13/08/2020	29/03/19 13/08/2020
DA2110	L9, L11, L13, L14, L15 Plans L7, L9, L11, L13, L15, L17, L19 Plans	D-01/04/19 I 13/08/2020	29/03/19 13/08/2020
DA2111	Level 17 Plans Roof Terrace Plan	E-29/04/1 E 13/08/2020	29/04/19 13/08/2020
DA2112	Roof Terrace Plan Plant Level	G-29/04/19 M 13/08/2020	29/04/19 13/08/2020
DA2113	Plant Level Roof Level	D-22/11/18 I 13/08/2020	07/12/18 13/08/2020
DA2114	Roof Plan	B-22/11/18	07/12/18 13/08/2020
DA2200	Section A	C-22/11/18 F 13/08/2020	07/12/18 13/08/2020
DA2201	Section B	D-01/04/19 G 13/08/2020	29/03/19 13/08/2020
DA2300	North Elevation	E-29/04/19 H 13/08/2020	29/04/19 13/08/2020
DA2301	South Elevation	F-29/04/19 I 13/08/2020	29/04/19 13/08/2020
DA2302	East Elevation	D-29/04/19 G 13/08/2020	29/04/19 13/08/2020
DA2303	West Elevation	D-22/11/18 G 13/08/2020	07/12/18 13/08/2020
DA2402	Unit Type Plans (Podium)	E-29/04/19 H 13/08/2020	29/04/19 13/08/2020
DA2403	Unit Type Plans (Podium)	D-01/04/19 F 13/08/2020	29/03/19 13/08/2020
DA2404	Unit Type Plans (Podium)	F 13/08/2020	13/08/2020
DA2405	Unit Type Plans (Tower)	G 13/08/2020	13/08/2020
DA2406	Adaptable Unit Type Plans	E-29/04/19 G 13/08/2020	29/04/19 13/08/2020
DA2407	Adaptable Unit Type Plans	C-01/04/1 G 13/08/2020	29/03/19 13/08/2020

Drawing No.	Drawing Name	Drawing Revision & Date	Drawing (Plot) Date
DA2408	Adaptable Unit Type Plans	C-01/04/19 H 13/08/2020	29/03/19 13/08/2020
DA2409	Ventilation/Acoustic Slot Detail	B-01/04/19 E 13/08/2020	29/03/19 13/08/2020
DA9004 DA9003	Building Setback and Building Separation	C-22/11/18 F 13/08/2020	07/12/18 13/08/2020
DA9006	External Finishes North	C-22/11/18 G 13/08/2020	07/12/18 13/08/2020
DA9007	External Finishes South	C-22/11/18 G 13/08/2020	07/12/18 13/08/2020
DA9008	External Finishes West	C-22/11/18 F 13/08/2020	07/12/18 13/08/2020
DA9009	External Finishes East	B-22/11/18 F 13/08/2020	07/12/18 13/08/2020
DA9010	External Finishes Stencil Pre-Cast	B-22/11/18 E 13/08/2020	07/12/18 13/08/2020

AMENDED BY SYDNEY EASTERN CITY PLANNING PANEL 2/5/2019

- (b) Landscape Plan prepared by Umbaco, Revision ~~F~~ I, dated ~~14.12.18~~ 27.7.2020;
- (c) BASIX and NatHERs Certificates prepared by Windtech;
- (d) Acoustic Report by Acoustic Logic [Reference No. 20161621.1/2607A/R3/JL] dated 7 December 2018;
- (e) Preliminary Soil Investigation Report prepared by CETEC Professional Scientific Solutions [Project no CN180814] dated August 2018;
- (f) Pedestrian Wind Environment Study prepared by Windtech - WC949-02F03(REV1)- WE REPORT dated 31.07.18 and WC949-04F01(rev0) - WS Memo dated 12.4.19 and Pedestrian Wind Statement Memo WC949-07F02(rev0) - WS Memo dated July 16, 2020;
- (g) Site Waste Management Plan (SWRMP) prepared by Senica dated 14 August 2020;
- (h) Energy Efficient Report and Sustainability Initiatives, prepared by RENYI, dated August 2018 (to be updated by a condition within this consent);

Except where amended by the following conditions of consent.

Note: References in this consent that refer to Council means 'Waverley Council' not the Principal Certifying Authority

Reason for modification: Condition 1 is to be modified to refer to the modified architectural plans and information.

2. GENERAL MODIFICATIONS

(a) ~~DELETED BY SYDNEY EASTERN CITY PLANNING PANEL 2/5/2019~~

**However drawings DA2113, DA2114 and DA1100 must be updated to reflect the amendments reflected in Level 17, drawing DA2111, Level 17, as endorsed by the Panel.*

- (b) ~~The architectural plans as amended are to be stamped by the Accredited NatHERs assessor.~~
- (c) ~~The reference to the bin stand at the front of the site is to be deleted from the plans. All waste collection is to be from within the site.~~

The amendments are to be approved Council's Executive Manager, Building Waverley (or delegate); prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

Reason for modification: The architectural plans accompanying the Section 4.55(2) Proposal have addressed each of the general modifications required by Condition 2 making the condition obsolete.

31. ADAPTABLE HOUSING

At least ~~8~~ 9 Adaptable dwellings are to be provided within the development. The number of adaptable dwellings provided is to comply with the requirements of accordance with the Waverley Development Control Plan 2012 and are to be certified to comply with the relevant Australian standards by an independent, suitably qualified person.

Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

Reason for modification: With 85 apartments in the modified development, the number of adaptable dwellings required by WDCP 2012 has increased to 9.

36. BICYCLE PARKING

At least ~~89~~ 100 bicycle parking spaces are to be provided, allocated in the following manner:

- ~~78~~ 88 spaces for residents*
- ~~8~~ 9 spaces for visitors*
- 3 spaces for commercial/retail*

Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area.

This is to be detailed in the construction certificate plans prior to the issue of the relevant Construction Certificate.

Reason for modification: With 85 apartments in the modified development, the number of required resident and visitor bicycle spaces has increased.

6.0 Section 4.55 assessment

Section 4.55(2) and (3) of the *Environmental Planning and Assessment Act (EP&A Act)* state:

- (2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) it is satisfied that the development to which the consent as modified relates is **substantially the same development** as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
 - (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
 - (c) it has notified the application in accordance with—
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
 - (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.
- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

In accordance with these tests:

- The modified development would be substantially the same as “the development for which consent was originally granted” as the Section 4.55(2) Proposal retains the essence of the form and content of the Original Consent
- Other than proposed departures from the WLEP 2012 FSR and height of buildings standards (consistent with Council’s Planning Agreement Policy), the Section 4.55(2) Proposal would not alter the compliance of the development with the relevant environmental planning instruments and DCP. Additionally, the modifications would have minimal and acceptable environmental effects.

More details on the satisfaction of these tests follows.

6.1 Substantially the same development

To enable a comparison of the Original Consent and the Section 4.55(2) Proposal, a comparison set of plans has been prepared by Cottee Parker that compare the development approved by the Original Consent and the Section 4.55(2) Proposal by level and elevation (see attached).

Table 1 also considered the numerical difference between the Original Consent and the Section 4.55(2) Proposal.

For the following reasons, it is our view that the Section 4.55(2) Proposal will result in a development that is substantially the same as the Original Consent:

- a) **Form** - Both the Original Consent and the Section 4.55(2) Proposal comprise:
- Demolition of the existing commercial building
 - Construction of a new mixed use building comprising:
 - Non-residential uses at the lower ground and ground floors
 - A through site link connecting Hegarty Lane and Grafton Street
 - A publicly accessible open space at Hegarty Lane
 - A vertical mechanical car parking system addressing Hegarty Lane and accessed from Grafton Street
 - A podium
 - A residential tower
 - Communal recreation areas on the roof of the podium (Level 5) and roof of the tower.
- b) **Built form and external appearance** – The Section 4.55(2) Proposal inserts two storeys into the residential tower and increases the Hegarty Lane podium height by one storey. Other subtle changes to the external appearance of the building are proposed that would not be perceived by even a keen observer.
- c) **Land use** – Both the Original Consent and the Section 4.55(2) Proposal comprise non-residential uses at the lower ground and ground floors, with residential uses above.
- d) **Height** – The Section 4.55(2) Proposal increases the height by two storeys or 6.2m (+9.5%). This increase in building height is consistent with Council's Planning Agreement Policy and results in a development that is substantially the same as the Original Consent.
- e) **Apartments** – Compared with the Original Consent, the Section 4.55(2) Proposal increases the number of apartments by seven (+9%). The overall approved mix of studios, one bedroom, two bedroom and three bedroom apartments is generally unchanged.
- f) **Bulk and scale of the building** – The bulk and scale of the Section 4.55(2) Proposal is substantially the same as the Original Consent noting that:
- The Comparison Plans (see attached) show that the building envelope by level and the building separation to adjoining buildings are substantially the same
 - The Comparison Elevations show that the main envelope change relates to the insertion of two tower levels (with a comparable modification mooted to the west at 45-57 Grafton Street).
- g) **Vehicular access points** – The Section 4.55(2) Proposal retains the access arrangements approved by the Original Consent.
- h) **Car parking arrangements** - The Section 4.55(2) Proposal retains the vertical mechanical car parking system accessed from Grafton Street approved by the Original Consent. Consistent with Council's policy to reduce reliance on private cars, and noting the site's proximity to the Bondi Junction Transport Interchange, no additional car parking is proposed for the proposed increase in apartments.
- i) **Traffic** – The RTA Guide to Traffic Generating Development notes the following relevant traffic generation rates:
- High density residential flat buildings: Peak Hour Vehicle Trips = 0.24 trips per unit

Putting aside the proposal to retain the number of approved car parking spaces, the addition of seven apartments would theoretically result in less than two additional peak hour traffic movements. This increase would not be appreciable in the context of the site's Bondi Junction location.

- j) **Amenity impacts for adjoining residents:** For adjoining and nearby residents; the traffic, privacy, overshadowing, view, noise, streetscape, landscape and other environmental impacts arising from the Section 4.55(2) Proposal are commensurate with the impacts of the development approved by the Original Consent (see Section 6.2).

6.2 Planning assessment

An assessment of the Section 4.55(2) Proposal, using the considerations at Section 4.15(1) of the EP&A Act, follows.

6.2.1 S. 4.15(1)(a) State, regional and local plans

The environmental planning instruments (EPIs) and development control plans (DCPs) relevant to the site/proposal are listed below, with an updated assessment of compliance for the Section 4.55(2) Proposal.

State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)

No change to the approved compliance of the original consent.

State Environmental Planning Policy (Sustainability Index: BASIX) 2004 (BASIX)

A new BASIX certificate has been prepared for the Section 4.55(2) Proposal (see attached).

SEPP (Infrastructure) 2007

Concurrence was granted to the DA from the rail authority, Sydney Trains, pursuant to Clause 59(1) of the *Environmental Planning and Assessment Regulation 2000* and Clause 86 of the Infrastructure SEPP. No additional excavation is proposed and the structural advice by TTW (see attached) confirms that:

- The previous structural and geotechnical assessment for Sydney Trains and DA submission allowed for additional levels on top of the building
- There will be no additional load imposed over the rail tunnel by the proposed additional floors, beyond what was previously modelled and approved by Sydney Trains.

Given this, the concurrence and existing conditions of consent from Sydney Trains remain relevant to the Section 4.55(2) Proposal.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Like the development approved by the Original Consent, the Section 4.55(2) Proposal will be similar in scale and height to other buildings along Grafton Street, and lower than the tallest buildings in Bondi Junction. The proposal will subtly add to the skyline of Bondi Junction and have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries. The Section 4.55(2) Proposal is considered acceptable with regards to the relevant matters for consideration under the SREP.

State Environmental Planning Policy 65 - Design Quality of Residential Flat Buildings (SEPP 65)

Cottee Parker has prepared the following:

- Assessment of compliance with the nine design quality principles set by SEPP 65 demonstrating that the Section 4.55(2) Proposal has a satisfactory design quality (see attached)

- An assessment of compliance with the Apartment Design Guide (**ADG**), shown on the Apartment Schedule (see attached DA9002). Importantly:
 - Solar access:
 - 78% of apartments will receive at least 2 hours of direct sunlight to private open space and living areas between 9am and 3pm in midwinter (70% required by the ADG and 76% achieved for the Original Consent)
 - 12% of apartments are south facing receiving no sun between 9am and 3pm in midwinter (maximum of 15% required by the ADG and 12% achieved for the Original Consent).
 - Natural cross ventilation: At least 60% of apartments will be naturally cross ventilated in the first 9 storeys of the Section 4.55(2) Proposal, consistent with the ADG design criteria which requires 60%. 78% of all apartments in the Section 4.55(2) Proposal are naturally cross ventilated (compared with 79% in the Original Consent). The approved trickle ventilation system for apartments facing Syd Einfeld Drive is retained in the Section 4.55(2) Proposal.
 - Private open space: All of the additional apartments have a private open space that complies with the ADG minimum dimensions.
 - Communal open space: The high quality/amenity approved communal open space areas at Level 5 and on the tower rooftop have been retained (with an approved and proposed area equal to 25%/26% of the site area).
 - Building separation: The approved building separation distances and privacy protections measures are retained in the Section 4.55(2) Proposal (see attached DA 9003 Building Set Back and Building Separation Plan).

The ADG assessment of compliance shows that the Section 4.55(2) Proposal performs to a similar standard to the Original Consent and that a satisfactory standard of residential amenity will be achieved for and from the development.

Waverley Local Environmental Plan 2012 (WLEP 2012)

There is no change to the compliance of the development approved by Original Consent with the following WLEP 2012 provisions:

- Land use table – Zone B4 – Mixed Use Zone
- Heritage conservation (cl. 5.10)
- Earthworks (cl. 6.2)
- Solar access to public spaces in Bondi Junction (cl. 6.7)
- Design Excellence (cl. 6.9).

The Section 4.55(2) Proposal contravenes the WLEP 2012 height standard (cl. 4.3) and FSR standard (cl. 4.4) as addressed below:

Height

- WLEP 2012 standard 60m
- Original Consent 65.1m measured from existing ground level to the top of the lift motor room (up to 8.5% departure)
- Section 4.55(2) Proposal 71.3m measured from existing ground level to the top of the lift motor room (up to 18.8% departure).

FSR

- WLEP 2012 standard 6:1
- Original Consent 6:1
- Section 4.55(2) Proposal 6.79:1 (0.79:1 or +13% departure).

Clause 4.6 written requests are not required for a Section 4.55 application for modification.

The proposed extent of non-compliance is consistent with the built form of Bondi Junction where many buildings have been approved with additional height and FSR consistent with Council's Planning Agreement Policy (including a mooted increase in height and FSR to the west of the site at 45-57 Grafton Street). **Table 2** shows extracts from the Waverley Council Planning Agreement Register (updated to 24 February 2020) showing planning agreements that have supported additional FSR on sites in Bondi Junction.

Table 2 – Extracts from Waverley Council Planning Agreement Register (updated to 24 February 2020): Bondi Junction sites/consents

DA	Address	Approved development	Additional FSR
DA-498/2017	87-99 Oxford Street and 16-22 Spring Street, Bondi Junction	Demolition of existing structures; construction of a new 14 storey mixed use building comprising residential apartments, retail and commercial premises, and four basement levels; and a planning agreement	15%
DA-419/2015	110 -116 Bronte Road, Bondi Junction	Demolition of existing building and construction of shop top housing	3%
DA-89/2016	362 - 374 Oxford Street, Bondi Junction	Demolition of existing building and construction of mixed used building incl residential, serviced apartments & ground floor retail	15%
DA-68/2017	16 Llandaff Street, Bondi Junction	Demolition of existing buildings and construction of a 9 storey residential flat building with basement parking and offer to enter a Planning Agreement	16%
DA-101/2017	20 Llandaff Street, Bondi Junction	Demolition of existing buildings and construction of new RFB with 32 units, basement parking and offer to enter into a planning agreement	15%
DA-600/2015/B	292-302 Oxford Street, Bondi Junction	Modification of the approved 12 storey mixed use building to add an additional two stories and other modifications	14%
DA-572/2015	89 Ebley Street Bondi Junction	Demolition of existing dwelling and construction of mixed use building (up to seven storeys) with ground floor retail, residential above, basement car-park and associated landscaping	5%
DA 585/2015/B	59-69 Oxford Street, Bondi Junction	Partial demolition of existing structures and construction of a new fourteen storey mixed use development with basement car park, pub at ground floor, commercial space and residential units at first floor and residential units on all levels above	19%
DA-503/2014/A	304-308 Oxford Street, Bondi Junction	Modification to approved mixed use building including two additional storeys	15%
DA-101/2014/B	344-354 Oxford Street, Bondi Junction	Modification to approved mixed use building including one additional storey	5%
DA-569/2015/A	109 Oxford Street, Bondi Junction	Demolition of the existing buildings and construction of a new 12 storey mixed use building with basement car parking as modified for approved mixed use development, including provision of two additional floor levels comprising 18 units and an additional basement level	15%
DA-520/2014/A	6 Edward Street, Bondi Junction	Modification to internal layout & other alts	11.59% (in addition to approved 15%)
DA-598/2008/E	310-330 Oxford Street, Bondi Junction	Part demolition of existing buildings, construction of 12-13 storey mixed use building with basement car parking	~2% - Equivalent of 2 storeys
DA-81/2013	241-247 Oxford Street, Bondi Junction	Demolition of existing building, construction of a 20 storey mixed use building with basement car park	15%
DA-184/2013	33-37 Waverley Street, Bondi Junction	Demolition of existing buildings, construction of 9 storey residential flat building with basement car parking	9.10%
DA-520/2014	6 Edward Street, Bondi Junction	Demolition of existing building and construction of residential flat building with 4 apartments and basement car parking	15%
DA-363/2011/B	50 Waverley Street, Bondi Junction	Additional 2 storeys and basement car parking level to approved 9 storey residential flat building	~15%

Bondi Junction Strategic Centre Planning Proposal

Council has prepared a planning proposal to amend the provisions of WLEP 2012 that apply to Bondi Junction Strategic Centre. A conditional gateway determination was issued on 2 March 2020 and exhibition has commenced. The Section 4.55(2) Proposal retains (and somewhat increases) the approved lower ground and ground level non-residential uses on the site.

Waverley Development Control Plan 2012 (WDCP 2012)

The Section 4.55(2) Proposal does not alter compliance with WDCP 2012 noting the following:

- **Car parking:** WDCP 2012 sets maximum car parking controls (noting that the ADG parking provisions override the DCP)
- **Bicycle parking:** The Section 4.55(2) proposal seeks consent to modify condition 36 to require the provision of additional bicycle parking for the additional apartments in accordance with the controls in WDCP 2012
- **Adaptable units:** The Section 4.55(2) proposal seeks consent to modify condition 31 to require the provision of an additional adaptable unit in accordance with the controls in WDCP 2012.

6.2.2 S. 4.15(1)(b) Impact on the environment

Bulk and scale, design, traffic and parking and residential amenity for the development have been addressed above. Additional comments on overshadowing, views and wind follow.

Overshadowing

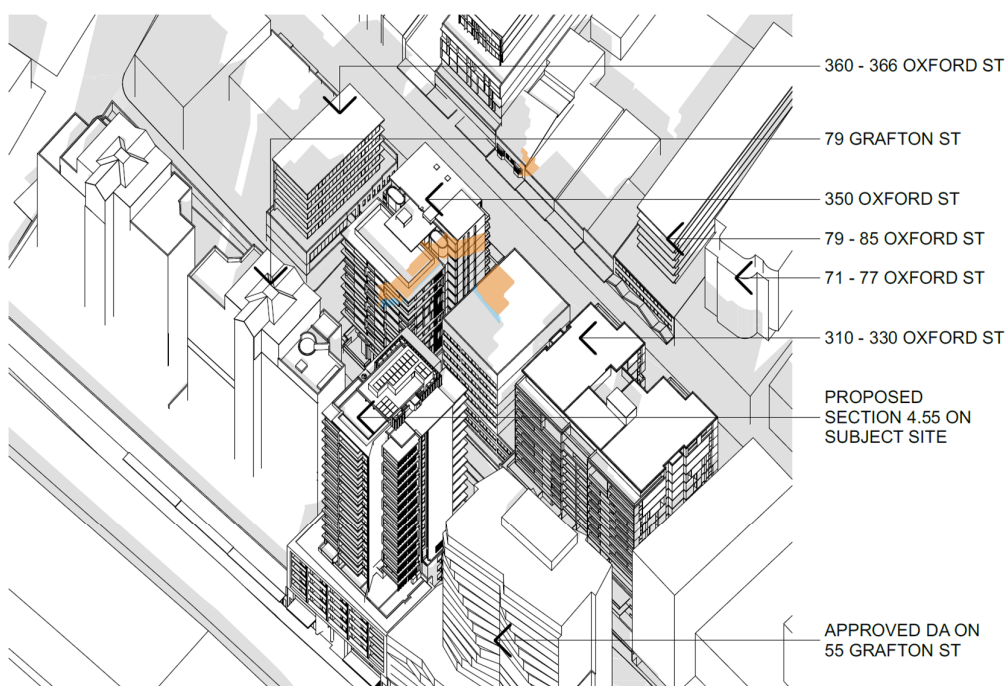
Cottee Parker has prepared a detailed analysis that considers the mid-winter shadow impact of a compliant building, the development approved by the Original Consent and the shadow impact of the Section 4.55(2) Proposal (see attached DA9100-9108 and DA9201-DA9202). The analysis shows that:

- **79 Grafton Street:** The adjoining rooftop private open space accommodating a spa to the east at 79 Grafton Street will receive in excess of three hours of midwinter sun, with the Section 4.55(2) Proposal casting a new shadow at 3pm only
- **General assessment:** Shadows cast by the additional two storeys predominantly fall on to the rooves of buildings to the south, south-west and south-east. The additional shadows in elevation affecting living rooms and balconies in nearby buildings have a small area and will not have an unreasonable impact on the residential amenity of adjoining residents (existing and future) as shown in **Table 3**. The assessment shows that the Section 4.55(2) Proposal results in additional overshadowing of nearby apartments, generally consistent with the ADG (that is apartments will receive at least 2 hours of solar access to living rooms and balconies or do not have their solar access reduced by more than 20% if they already receive less than 2 hours). Three apartments in the mixed use building at 350 Oxford Street will have their solar access reduced by more than 20%. This impact is not unreasonable noting that:
 - The consent for the existing mixed use building at 350 Oxford Street (DA-101/2014 approved by the Land and Environment Court on 19/01/2015) was granted even though only 35% of the apartments would receive at least 2 hours of midwinter sun (as required by the ADG), demonstrating the difficulty of providing sunlight to the building. The Section 4.55(2) Proposal does not alter the number of apartments in the building that comply with the ADG solar access requirements
 - The existing eight storey commercial building at 332-342 Oxford Street, which is to the west of 350 Oxford Street, may be redeveloped in the future to its full potential (maximum FSR of 5:1 and maximum height of 38m pursuant to WLEP 2012 with additional height/FSR available pursuant to Council's Planning Agreement Policy), This mooted development

would cast shadows onto the existing building at 350 Oxford Street. Given this, the expectation to retain sunlight to already vulnerable apartments maybe unrealistic.

Table 3 – Overshadowing of nearby buildings (living rooms, balconies, private open space (based on analysis by Cottee Parker))

Address	Use	Number dwellings affected	Apartment location NW = North West NM = North Middle NE = North East	Area L = Living B = Balcony PoS = Private Open Space	Time Affected 21 June	Original Consent: Solar Access h = hours m = minutes	Section 4.55(2): Solar Access h = hours m = minutes	Difference h = hours m = minutes	Comments
						ADG Compliance: at least 2 hours or not reduced by more than 20% if already <2 hours			
59 Oxford Street	Mixed use	1	NM / L5	L + B	9am	✓ 6h (9am to 3pm)	✓ 5h 45min (9.15am - 3pm)	✓	
71-77 Oxford Street	Mixed use	2	NE / L3	L + B	10am	✗ 35m (9.25 - 9.45am) (1.45 - 2pm)	✓ 30m (9.25 - 9.40am) (1.45 - 2pm)	✓ 5m (14%)	
			NE / L4	L + B	10am	✗ 1h 45m (9.15 - 10am) (11.45am - 12.15pm) (1.45 - 2.15pm)	✓ 1h 25m (9.15 - 9.40am) (11.45am - 12.15pm) (1.45 - 2.15pm)	✓ 20m (19%)	
310-330 Oxford Street	Mixed use	1	ME / L12	L + B	9 – 11am	✓ 2h 15min (9 - 11am) (2.45 - 3pm)	✓ 2h 15min (9 - 11am) (2.45 - 3pm)	✓	
350 Oxford Street	Mixed use	7	NW / L9	L + B	1pm	✗ 1h 45m (11.30am - 1.15pm)	✓ 1h 30m (11.30am - 1pm)	✓ 15m (17%)	Balcony impact not considered significant on SW corner Additional overshadowing to living /balconies occurs after 12:30pm No apartment currently receiving sun will lose all sun Additional overshadowing to rooftop common open space occurs between 12:45pm – 2:30pm, but this space still receives >2 hours overall
			NM / L9	L + B	1pm	✗ 1h 45m (11.45am - 1.30pm)	✓ 1h 30m (11.45am - 1.15pm)	✓ 15m (17%)	
			NE / L9	L + B	1pm	✗ 1h 45m (12.15 - 2pm)	✗ 1h 15m (12.15 - 1.30pm)	✗ 30m (28%)	
			NW / L8	L + B	1pm	✗ 1h 15m (11.45am - 1.00pm)	✓ 1h (11.45am - 12.45pm)	✓ 15m (20%)	
			NM / L8	L + B	1pm	✗ 1h (12.30 - 1.30pm)	✗ 30m (12.30 - 1pm)	✗ 30m (50%)	
			NE / L8	L + B	1pm	✗ 30m (1.15 - 1.45pm)	✗ 15m (1.15 - 1.30pm)	✗ 15m (50%)	
			NW / L7	L + B	1pm	✗ 30m (12.15 - 12.45pm)	✓ 30m (12.15pm - 12.45pm)	✓	



PROPOSED SECTION 4.55 BUILDING SHADOWS AT 1PM
PROPOSED SECTION 4.55 BUILDING - 21 JUNE 1PM

LEGEND - SHADOW DIAGRAM

- SHADOW OF COMPLIANT BUILDING
- APPROVED DA ADDITIONAL SHADOW
- PROPOSED SECTION 4.55 ADDITIONAL SHADOW

Figure 5 – Extract from shadow diagram 1pm midwinter – Section 4.55 Proposal (Source: Cottee Parker, DA9104)

Views

The Section 4.55(2) Proposal (including an additional two storeys) will not result in any view loss as there are no apartments that enjoy views over the top of the approved building. Views along the approved eastern and western side setback areas will be retained as the Section 4.55(2) Proposal does not modify the side setback/building separations, as illustrated by **Figure 6** distances.

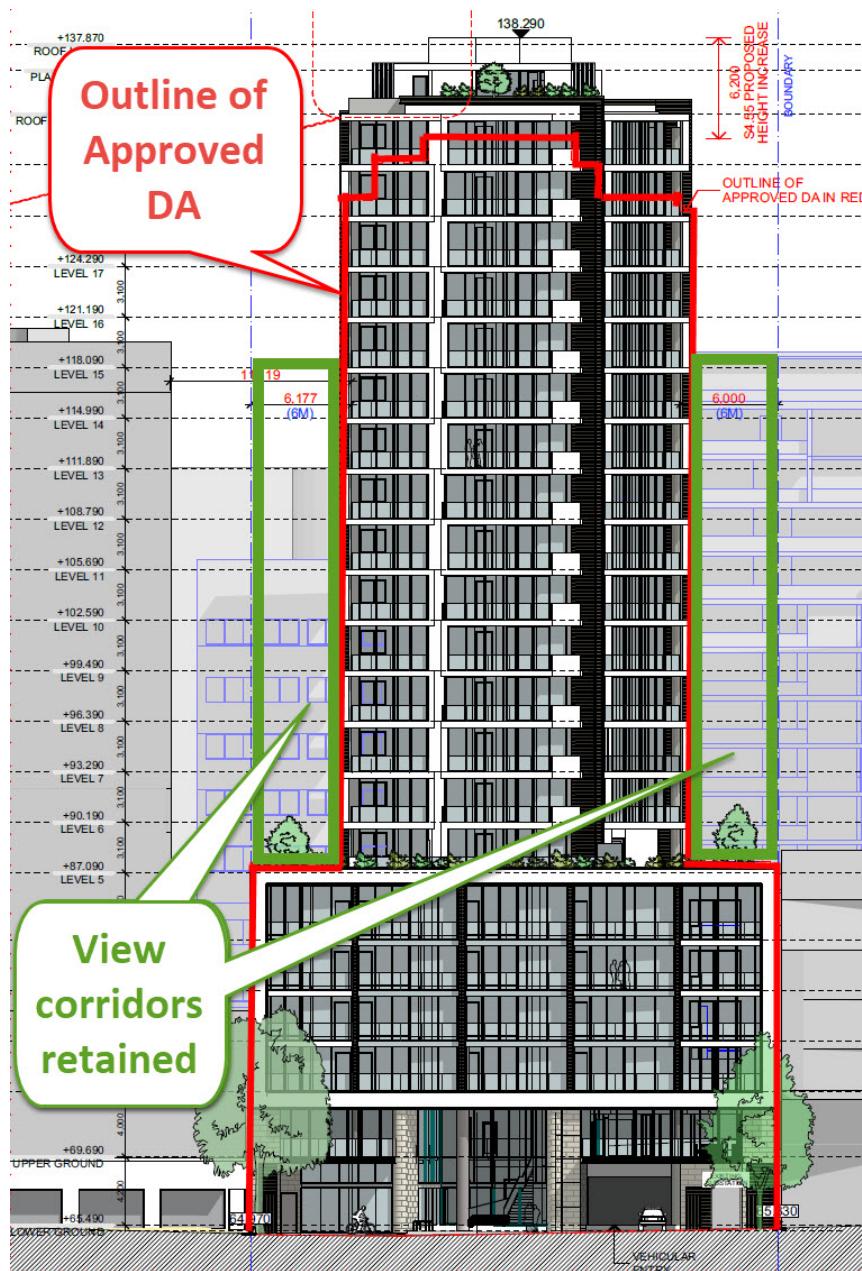


Figure 6 – Proposed North Elevation (Grafton Street) showing overlay of approved DA and retained view corridors (Source: Cottee Parker, DA2300)

Wind

Windtech has prepared a Pedestrian Wind Statement Memo which assesses the wind impacts of the Section 4.55(2) Proposal (see attached). Windtech concludes that the wind impacts of the modified development will be acceptable (including conditions within private and communal open spaces), subject to approved wind mitigating treatments such as trees, planters, screening and roofing.

The approved trickle ventilation system, for apartments affected by noise from Syd Einfeld Drive, is retained in the Section 4.55(2) Proposal.

Waste

As detailed in the updated Waste Management Plan by Senica (see attached), the Section 4.55(2) Proposal incorporates appropriate waste and recycling management facilities to service the additional apartments and commercial/retail uses.

6.2.3 S. 4.15(1)(c) Suitability of the site

As detailed throughout this report, the site is suitable to accommodate the Section 4.55(2) Proposal (in the same way that it is suitable for the development approved by the Original Consent).

6.2.4 S. 4.15(1)(d) Any submissions made in accordance with the Act or Regulations and S.4.15(1)(e) The public interest

It is expected that the consent authority will consider any submissions in its assessment of the Section 4.55(2) Proposal. No wider issues of public interest arise.

7.0 Conclusion

In light of the merits of the Section 4.55(2) Proposal and the absence of any significantly adverse environmental effects, the Section 4.55(2) Proposal is considered worthy of consent as:

- The form and content of the Section 4.55(2) Proposal is substantially the same as the development approved by the Original Consent
- The Section 4.55(2) Proposal will have a satisfactory impact upon the environment. In particular, it:
 - Is consistent with Council's Planning Agreement Policy
 - Provides a high standard of architectural design and residential amenity consistent with the Original Consent and the emerging standard of new buildings in Bondi Junction
 - Protects the privacy of existing and future residents on and off the site
 - Has acceptable overshadowing impacts
 - Has view impacts consistent with the development approved by the Original Consent
 - Provides housing choice
 - Provides a high standard of residential amenity for and from the development
 - Has a traffic impact and access, parking and servicing arrangements consistent with the development approved by the Original Consent.

As the Section 4.55(2) Proposal satisfies the relevant tests listed at Section 4.55 of the EP&A Act, it is worthy of consent.

