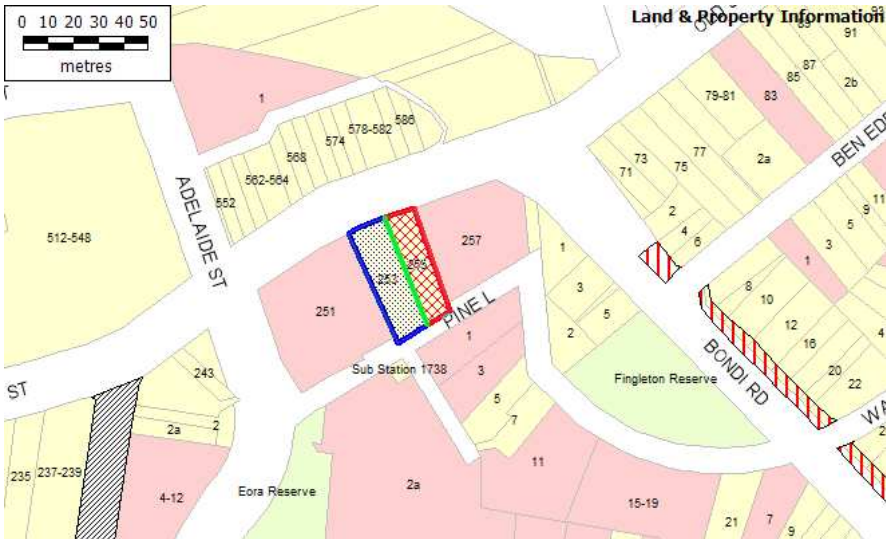


## 253-255 Oxford Street, Bondi Junction (DA 386/2012)

### Report to Sydney East Joint Regional Planning Panel

Waverley Council Development Assessment Report	
Development Application No.	DA 386/2012
Address	253-255 Oxford Street, Bondi Junction
Lodgement Date	Original: 4 September 2012, Amended: 21 December 2012, 28 March 2013 and 19 April 2013
Proposal	Demolition of existing buildings and construction of a 19 storey mixed-use development containing 94 residential units, 6 retail premises and 3 levels of basement parking.
Zoning and relevant controls	<ul style="list-style-type: none"> <li>B4 – Mixed Use, Waverley Local Environmental Plan (Bondi Junction Centre) 2010</li> <li>Waverley Development Control Plan 2010</li> </ul>
Owner	Kelburn Holdings Pty Limited Nalela Pty Limited
Applicant	Legacy Property
Submissions	Original: 13 submissions Amended (28/3/13 & 19/4/13): 6 submissions
Issues	Materials & finishes, bulk, scale, setbacks, poor amenity for communal space, view loss, active frontage to Oxford St, land dedication, parking allocations, public art, potential land contamination
Recommendation	DEFERRED COMMENCEMENT CONSENT
<p>Site Map</p> 	

## **1. PREAMBLE**

### **1.1 Executive Summary**

This development application proposes the redevelopment of 253-255 Oxford Street, Bondi Junction. The proposal is a permissible use within the site's B4 Mixed-use zone.

The original application was lodged in September 2012 and sought the demolition of the existing buildings on both sites and construction of a 19 storey mixed-use building containing one ground level retail space, 103 residential units and basement car park (83 vehicles).

This scheme was deferred due to issues relating to the size and bulk of the development as well as a variety of design issues. Following this, a new architect for the project was engaged and an amended proposal was submitted in December 2012. This amended scheme again proposed the construction of a 19 storey mixed use development, however there were a number of changes including a reduction to 90 residential units, 6 retail spaces and 3 levels of basement parking for 79 vehicles.

An assessment of the amended (Dec 2012) plans revealed that a number of key issues remained, including:

- Non compliant floor space ratio.
- Tower excessive in size and bulk – inconsistent with DCP objectives.
- Inadequate front setback to tower.
- Excessive voids (3 units were removed to create a communal area thereby reducing the floor space).
- Excessive non-calculable FSR areas (such as car parking, storage, plant areas etc) located above ground level where they would be more appropriate to be located wholly underground.
- An unresolved roof feature added unnecessary bulk to the building.
- SEPP 55 provisions had not been satisfied.
- The inclusion of a colonnade to Oxford St where the DCP control calls for a street wall/podium design.
- Poor communal open space that receives minimal or no natural sunlight.

The applicant sought to submit further amendments, however as these still failed to adequately address threshold issues, this offer was rejected by Council.

On 13 March 2013, the applicant lodged an appeal (deemed refusal) to the Land and Environment Court. The applicant lodged a notice of motion to have the amended plans accepted and the Court agreed to this request.

These plans (19 April 2013) are the subject of this assessment.

Overall, key changes that have occurred between the plans submitted to Council on 21/12/12 and 19/4/13 include, though not limited to:

- Compliance with respect to the height control of 60m;
- Compliance with respect to the floor space ratio (FSR) control of 6:1;
- Colonnade deleted and replaced with an awning to Oxford Street frontage that includes cut-outs for street trees;
- Street wall has been setback to align with adjoining properties and includes inset balconies with materials and finishes improved from previous scheme;
- The communal open space area has been relocated to the front of the building;

- The 4 storey void to the rear has been deleted and replaced with 4 additional units, with an increased rear setback of the tower;
- Architectural roof feature deleted from atop of the building;
- Land dedication to Pine Lane of 1m width x 2.4m depth; and
- Consideration of Public art into the development.

Whilst many of the issues previously raise have been addressed, a number remain:

- materials and finishes,
- potential contamination,
- privacy treatment,
- land dedication,
- wind mitigation,
- active street frontage,
- communal open space amenity,
- public art.

Therefore, the application is recommended for deferred commencement consent to address these matters.

## **1.2 The Site and its Locality**

The site is located on the southern side of Oxford Street between Bondi Road and Adelaide Street/Hollywood Avenue. The site is within the Bondi Junction Centre on its north east edge.

There are two buildings on the site;

- 255 Oxford Street has a three storey building
- 253 Oxford Street has a nine storey building.

Both buildings comprise ground floor retail and commercial office (mainly medical suites) in the upper levels.

The site has a primary frontage to Oxford Street of 28m and a secondary rear frontage of 24m to Pine Lane.

The site has an area of 1171sqm and a fall from the rear (Pine Lane) down to the front (Oxford Street) of the site of approximately 5.07m.

A number of high density residential, retail and commercial buildings surround the site. Approximately 250 metres to the west of the site is the Bondi Junction bus and rail interchange.

## **1.3 Background**

### **• 2010: Previous Development Application – Commercial Building**

In 2010, Deferred Commencement Development Consent was granted for the demolition of existing buildings and construction of a thirteen storey office / retail building with two levels of basement car parking was approved by Waverley Council.

This application was assessed under the former LEP's (Waverley LEP 1991 and Draft Bondi Junction LEP 2010) which were relevant to the site at this time.

### **• 2012: Pre DA – Mixed use Building**

In April 2012, a Pre-DA (application) was lodged. These plans proposed to demolish the existing building and erect a 19 level mixed use building containing ground and mezzanine retail and 106 residential units with basement car park for 74 vehicles.

Following the assessment of this proposal, the applicant was provided with detailed advice. The issues outlined in the advice were:

- Excessive bulk and scale;
- Excessive number of storeys / inadequate ceiling heights;
- Insufficient front, side and rear setbacks;
- Insufficient building separation;
- SEPP 65 Urban Design / Architectural Resolution concerns;
- Need for active frontages and improved retail spaces;
- Poor residential unit orientation;
- Apartment Mix;
- Poor communal Open Space;
- Solar Access / Overshadowing;
- View impacts
- Building Code of Australia / Fire Safety matters;
- Additional reports necessary for submission.

• **2012: Current application (DA 386/2012)**

A chronology of the current development application is provided:

*4 September 2012:* Development Application lodged. Proposal seeks the demolition of existing buildings and construction of a 19 level mixed use building containing one ground level retail space, 103 residential units and basement car park (83 vehicles). The application was advertised for 14 days and thirteen submissions were received.

*13 November 2012:* The application was deferred for a variety of reasons. These reasons were in essence, the same issues outlined in the Pre-DA advice. The applicant had done little to address these issues.

*21 December 2012:* The applicant advises that a new architect has been engaged and a redesign undertaken. Amended plans are submitted. The application was advertised for 14 days and 12 submissions were received.

*27 February 2013:* A preliminary assessment of these amended plans was undertaken and a number of issues (similar to those previously outlined) were again identified. A further meeting was undertaken with the applicant and the issues were again outlined. These were again conveyed to the applicant. Outstanding issues of concern related to:

- The use of a colonnade as a street wall/podium to Oxford Street;
- Extensive voids and resultant bulk of tower (including the requirement for winter gardens to be considered within GFA definition);
- Excessive height;
- Unacceptable design of architectural roof feature;
- Inadequate communal landscape areas;
- Reallocation of parking.
- Clarification of solar access compliance.
- Contamination and need for Stage 2 study;
- 3D CAD model required.
- Consideration for public art required.

*4 March 2013:* A further meeting was held to discuss the above outstanding issues. At that meeting, the applicant offered further amendments to the scheme. These included changes to the podium façade and awning to Oxford Street, removal of the architectural roof feature, conversion of the winter gardens into open balconies to achieve numeric compliance with the FSR control, and a change to the height of the building based on a review of the survey.

These amendments were reviewed by Council's Senior Assessment Group which comprises Manager Development Assessment, Manager Strategic Planning, Area Managers, Urban Design and Heritage Architect, Senior Strategic Planner - Urban Design and Senior Assessment Officer. This group were of the view that the proposal (even if amended as offered by the applicant) remained unsupportable and should be refused. Had the applicant changed the scheme to genuinely address the issues that had been raised numerous times (eg tower bulk), the amended plans would have been accepted.

It was considered that the applicant had not made any genuine attempt to address the threshold issue of tower size and a report was prepared recommending refusal. It was intended that this report be submitted to the JRPP.

*13 March 2013:* Appeal lodged to the Land and Environment Court (based on plans discussed with Council Officers on 4 March 2013).

*19 March 2013:* An assessment report based on the amended plans submitted 21 December 2012 with a recommendation of refusal. The application was considered by Council at their meeting of 19 March 2013 where the following motion was passed:

*That Council:*

- 1. Receive and note the report.*
- 2. Endorses the Development Building Unit recommendation that the application be refused in accordance with the reasons contained in the report.*
- 3. Makes a submission in relation to this application to the Joint Regional Planning Panel.*

*28 March 2013:* The applicant applied to the Court to formerly amend plans. Changes contained in amended plans included the relocation of the level 2 courtyard to the Oxford Street frontage of the site.

*19 April 2013:* The applicant applied to the Court to again formerly amend plans. Changes contained in amended plans included the deletion of the rear level 5 roof garden, infill of this void for 4 additional units, increased rear setback of the tower, increased car parking to suit additional units and associated reconfiguration.

These plans (19 April 2013) are the subject of this assessment.

## 1.4 Proposal Description

The proposal seeks the demolition of all existing structures on the site and the construction of a 19 storey mixed use development containing 94 residential units, 6 retail spaces and 3 levels of basement parking for 82 vehicles.

The proposal consists of:

- *Basement level 3:* 30 car spaces (5 disabled), lift, stairs, plant.
- *Basement level 2:* 29 car spaces (4 disabled), lift, stairs, plant.
- *Basement level 1:* 23 car spaces (3 disabled, 1 car share), lift, stairs, plant.
- *Ground floor level:* through site link, 2 x retail shops, bicycle parking (94 residential, 10 retail), amenities, storage, lobby, stairs, vehicle access ramp, plant and fire control room.
- *Mezzanine:* 1 x retail shop, plant, OSD tank, utilities, stairs, vehicle access ramp and 1m wide land dedication to the rear (Pine Lane).
- *Level 1:* 4 x residential units (4 x 1 b/r), residential storage, 1 x retail shop (to rear), void to front (Oxford St) retail, garbage rooms, utilities, vehicular access from Pine Lane, loading dock to Pine Lane, substation, stairs.
- *Level 2:* 5 residential units (1 x 3 b/r, 2 x 1 b/r, 2 x studio), communal open space area to front, lift, stairs.
- *Level 3 to 12:* 6 residential units per floor (2 x 2 b/r, 4 x 1 b/r per floor), lift, stairs.
- *Levels 13 to 16:* 5 residential units per floor (1 x 3 b/r, 2 x 2 b/r, 2 x 1 b/r per floor), lift, stairs.
- *Level 17:* 5 residential units (3 x 3 b/r, 2 x 2 b/r of which 2 x 3b/r are spread over two levels), lift, stairs
- *Level 18:* Continuation of two units from level below, lift, stairs.

The proposal includes 197 square metres of retail space and 6,828 square metres of residential units. The proposed building will have a height of 60m.

The frontage of the building is to Oxford Street and presents as a two storey podium / street wall with awning and 17 storey tower above, while the rear of the building faces Pine Lane, a service lane. As part of the previous DA (DA 334/2009) relating to the site, Council sought a 3m dedication of land at the rear to allow lane widening and this has been incorporated into the proposal above street level, with the exception of the basement levels extending into this area. The proposal utilises the floor space that the dedicated land would provide for.

## **2. ASSESSMENT**

The following matters are to be considered in the assessment of this development application under Section 79C of the Environmental Planning and Assessment Act 1979.

### **2.1 Section 79C(1)(a) Planning Instruments.**

#### **2.1.1 STATE/REGIONAL ENVIRONMENTAL PLANNING POLICIES (SEPP)**

##### **State Environmental Planning Policy (Infrastructure) 2007**

Clause 86 of the Infrastructure Policy requires Development Applications for development within 25 metres of the Rail corridor and with ground penetrations greater than 2 metres to be referred to the Rail Authority for review.

The State Policy also provides a map indicating those sites affected by the Rail corridor in terms of the requirements of the policy.

The subject site/s just outside of the designated corridor area and does not require referral to RailCorp.

##### **State Environmental Planning Policy 55 – Remediation of Land**

Clause 7 of the SEPP requires Council to consider whether the land is contaminated. The site is currently occupied by two buildings currently used as medical suites.

Excavation of the site will be required for the proposed development, particularly as a basement car park extending three levels is sought. This aspect is discussed in greater detail in Section 3 of the report.

In summary, based on the review of the documentation submitted, Council has not been satisfied that the site is or will be suitable for the intended use as required under clause 7 of SEPP 55 and it is recommended this aspect be included as a deferred commencement matter.

##### **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development**

The proposal has been referred to the Joint Randwick/Waverley Design Review Panel for assessment against the 10 principles of SEPP65.

In summary, while the proposal satisfies many of the SEPP 65 principles, there are outstanding issues requiring further design resolution in order to be supported. These aspects are discussed in further detail with the Panel's comments in Section 3 of this report and are recommended to be included as deferred commencement matters.

##### **SEPP Building Sustainability Index (BASIX) 2004**

The applicant has submitted a BASIX Certificate that demonstrates compliance with State regulated energy efficiency and water conservation targets.

## 2.1.2 WAVERLEY LOCAL ENVIRONMENTAL PLAN (BONDI JUNCTION CENTRE) 2010

This application was lodged when WLEP 2010 was the relevant local instrument and the now current LEP 2012 was still a draft. Despite the recent adoption of the LEP 2012, there are specific Saving Provisions which excludes LEP 2012 from being considered for applications made prior to October 26, 2012. This application was lodged on 4 September 2012 and therefore LEP 2010 is the applicable planning instrument.

Control	Compliance
PART 1	
Clause 1.2: Aims of Plan	Yes
PART 2	
Clauses 2.1 – 2.3: Zoning	Yes
PART 4	
Clause 4.3: Height of Buildings	Yes
Clause 4.4 - 4.5: Floor Space Ratio	Yes
PART 5	
Clause 5.6: Architectural roof features	Yes
Clause 5.9: Preservation of trees or vegetation	Yes
PART 6	
Clause 6.1: Minimum street frontage of land for buildings	Yes
Clause 6.2: Design excellence	No
Clause 6.3: Active street frontages	Yes

### ***Clause 1.2: Aims of Plan and Clause 2.3: Zone Objectives and Land Use Table***

The proposed land use is consistent with the aims of the plan and zone objectives outlined in the LEP. The site is zoned B4 Mixed Use and adjacent to the core commercial zoning in Bondi Junction.

### ***Clause 4.3: Height of Buildings***

The LEP control for the site is 60m. The proposal seeks an overall height of 59.55m, compliant with the control. The proposal provides a compliant building height.

### ***Clause 4.4: Floor Space Ratio***

The LEP control for the site is an FSR of 6:1.

The previous scheme assessed for the site (Dec 2012 scheme) an FSR of 6.44:1.

The issue of compliance with the FSR control has been an area of difference between the applicant and Council. The Council's position is that the podium element should be properly utilised and primarily aimed at a usable commercial/retail space that meets the commercial/mixed use objectives of the zone. This was expressed to the applicant and would mean more usable floor space in the podium and less in the residential tower (thereby creating a slimmer tower).

It appears that the applicant's primary concern has been to achieve numerical compliance with the control whilst ensuring maximum yield (in terms of area) within the residential tower element.

This approach is evident in both the original design as well as some of the amendments undertaken by the applicant in response to FSR non-compliance:



Original design:

- Car park access, services, plant, storage and bicycle parking, all of which are typically located underground, are contained at ground and mezzanine levels and therefore occupy area that would otherwise contribute gross floor area to the overall development. These areas are excluded from the FSR definition
- The inclusion of a large 'under croft' area giving the appearance of the tower being on 'stilts'. This under croft is excluded from the FSR definition.
- The inclusion of a "through site link" at ground level. This element provides limited utility as it connects to a rear service lane. This link is excluded from the FSR definition.

Amendments:

- The removal of the external glass element (which formed the "winter gardens" to each unit) which turned these areas into "balconies". These balconies are now excluded from the FSR definition. This was done despite the Council's position that the winter gardens are a positive approach to addressing the significant wind effects that occur in Bondi Junction.
- Deletion of four units to create a large void or 'missing piece' within the tower (identified as a communal roof garden) at the rear of the building. This area has now been in-filled again with the four additional units, with the FSR reduced by providing an increased rear setback of the tower.

The above philosophy is further evidenced by a comparison of the residential FSR against the retail/commercial FSR and the FSR contained within the podium levels against the tower.

The overall site area is 1171sq.m. At 6:1 FSR, this allows 7,026sq.m GFA.

- The total retail/commercial component is just 197sq.m.
- The total residential component is 6,828sq.m.
- Podium levels provide only 610sq.m whilst the tower levels provide 6,416sq.m GFA.

This situation is due largely to the through site link, car park ramp, services, plant, storage and bicycle parking, all of which are not calculated in the FSR but contribute to the bulk of the building.

Nonetheless, the amended scheme does now meet the height and FSR numerical controls and recent modifications to the building form have occurred that respond positively to Council's fundamental issues (delete large void at rear by infilling with a redistribution of GFA to other parts of building, increase rear setback, relocate communal area for improved amenity for users).

In this regard, recommendations are suggested (as deferred commencement matters) to make improvements to the communal open space area on level 2 (provision of 2 storey void) and provide better active retail frontages, where a slight redistribution of floor space is necessary. However, in this case, the resultant GFA will and subsequent FSR will remain within the 6:1 control. These aspects are discussed in further detail within the report (see Section 2 and 3 of the report).

**Clause 5.6: Architectural roof features**

The original proposal sought an architectural roof feature to the top of the building that added unnecessary bulk to the building and was not integrated wholly into the design of the building. The amended scheme has deleted this feature and is considered acceptable.

**Clause 5.9: Preservation of trees or vegetation**

The proposal seeks to retain and protect the street trees at the front of the site, as well as incorporate new landscaping into the scheme, satisfying this clause.

**Clause 6.1: Minimum street frontage of land for buildings**

The two sites provide for a combined street frontage of more than 12m, satisfying this clause.

**Clause 6.2: Design excellence**

There have been a number of criticisms from the SEPP 65 Panel as well as Council's urban design staff that the design and appearance of the proposal will not result in a high quality building. In particular the standard of architectural design, materials and detailing could be improved. This aspect is discussed in further detail by the various specialists the application was referred to (see Section 2 and 3 of the report). At best, it is considered that the proposal requires further resolution in order to satisfy this clause.

**2.1.3 WAVERLEY DEVELOPMENT CONTROL PLAN 2010,**

This application was lodged on 4 September 2012 and therefore the only relevant DCP is the older DCP 2010 (there is a newer control – DCP 2012, however savings provisions exclude assessment against this).

**2.1.3.1 Part D2 – Multi unit Housing**

**Apartment Mix:**

The DCP requires developments with six or more apartments to provide the following mix of apartment sizes:

Studio/1 bedroom: 35%

2 bedroom: 50%

3 bedroom: 15%

The proposal provides for 56 x Studio/1 bedroom apartments (60%), 30 x 2 bedroom apartments (32%) and 8 x 3 bedroom apartments (8%). While non compliant with the DCP apartment mix controls, the applicant has provided justification in their statement for the need for increased smaller units within the Bondi Junction centre, considered acceptable. This justification is considered acceptable.

**Apartment size:**

The DCP requires the following minimum dwelling sizes:

Studio: 35m<sup>2</sup>

1 bedroom: 50m<sup>2</sup>

2 bedroom: 80m<sup>2</sup>

3+ bedroom: 100m<sup>2</sup>

As a minimum, the proposal provides for the following:

Studio: 40m<sup>2</sup>

1 bedroom: 40m<sup>2</sup>

2 bedroom: 75m<sup>2</sup>

3+ bedroom: 94m<sup>2</sup>

A number of apartments are smaller than the minimum sizes. The Residential Flat Design Code (RFDC) suggests at minimum apartment sizes of 1 bedroom - 50sq.m, 2 bedroom – 70sq.m and 3 bedroom – 95sq.m. As such, the proposal is non compliant with the DCP, however does meet the RFDC standard with the exception being 1 bedroom apartments. In this regard, the variance is minor (less than 10sq.m) and the undersized units are generally to the eastern side of the building with reasonable solar access and amenity. Accordingly, the variance is accepted in this instance.

**Storage:**

The DCP requires residential storage facilities at the following rates:

Studio apartments: 6m<sup>3</sup>

One bedroom apartments: 6m<sup>3</sup>

Two bedroom apartments: 8 m<sup>3</sup>

Three plus bedroom apartments: 10 m<sup>3</sup>

The proposal provides for storage areas (varying sizes) in the basement, 9 storage cages on ground floor and 60 residential storage cages on Level 1. Accordingly, the proposal is considered to satisfy this control with a condition recommended to ensure compliance in this respect.

**2.1.3.2 Part F1 - Bondi Junction Commercial Centre**

<b>COMPLIANCE CHECK</b>			
<b>Control</b>	<b>Standard</b>	<b>Proposed</b>	<b>Compliance</b>
Building Use	<ul style="list-style-type: none"> <li>Dependent on street classification (i.e. Primary, Secondary, Laneway)</li> </ul>	Primary: Ground & mezzanine level retail. First floor residential	<b>Yes</b>  <b>No</b>
Active Street Frontages	<ul style="list-style-type: none"> <li>Dependent on street classification (i.e. Primary, Secondary, Laneway)</li> </ul>	Primary: Retail to street frontage	<b>Yes (see comment)</b>
Street Alignment & Front Setbacks	<ul style="list-style-type: none"> <li>Front elevations aligned to street boundary</li> <li>Open space at the street front for private buildings are not permitted</li> </ul>	Site specific requirements requested	<b>See comment</b>
Separation	<ul style="list-style-type: none"> <li>Comply with BCA</li> <li>Refer to Figure 15</li> </ul>	Site specific requirements requested	<b>See comment</b>
Side & Rear Boundary Setbacks	<ul style="list-style-type: none"> <li>Refer to Section 2.10</li> </ul>	Site specific requirements requested	<b>See comment</b>
Number of Storeys	<ul style="list-style-type: none"> <li>16 storeys</li> </ul>	19 storeys	<b>No</b>
Views, Vistas & Tree Preservation	<ul style="list-style-type: none"> <li>Retain street vista / view</li> <li>Retain &amp; protect street trees</li> </ul>	Street vista retained  Street trees to remain & be protected	<b>Yes</b>  <b>Yes</b>
Building	<ul style="list-style-type: none"> <li>All elevations be</li> </ul>	Concern raised for	<b>No</b>

COMPLIANCE CHECK			
Control	Standard	Proposed	Compliance
Elevations	architecturally designed & contribute to the street <ul style="list-style-type: none"> <li>Building elevations incorporate passive design, thermal mass, glazing &amp; insulation</li> <li>Facades are to have relief modelling (Figure 28)</li> </ul>	architectural detailing	
Awnings & Colonnades	<ul style="list-style-type: none"> <li>Colonnades are not permitted</li> <li>Awnings should have consistent heights above the footpath</li> </ul>	Awning provided	<b>Yes</b>
Ceiling Heights	<ul style="list-style-type: none"> <li>Ground Level: 4.0m min. floor to floor</li> <li>Level 1 to Level 5: 3.5 min. floor to floor</li> <li>Above Level 5: residential uses: 2.7m floor to ceiling</li> </ul>	Ground level: 3m floor to floor (2.93m floor to ceiling) Mezzanine level: 2.8m floor to floor (2.595m floor to ceiling) Level 1 to 2: 3.5m floor to floor (2.9m floor to ceiling) Above level 3: 3.05m floor to floor (2.7m floor to ceiling)	<b>No</b>       <b>No</b>
External Living Areas	<ul style="list-style-type: none"> <li>An external living area is to be provided for each dwelling</li> </ul>	Balconies / terraces provided to all units	<b>Yes</b>
Wind Mitigation	<ul style="list-style-type: none"> <li>Buildings shall not create uncomfortable or unsafe wind conditions in the public domain</li> <li>&gt; 5 storeys in height requires wind environment statement</li> </ul>	Wind impacts remain of concern   Wind Impact Report submitted	<b>No</b>       <b>Yes</b>
Reflectivity	<ul style="list-style-type: none"> <li>Limit large areas of glass to a maximum of 60%</li> <li>Shade glass with horizontal, vertical or diagonal shading devices.</li> </ul>	Solar Light Reflectivity Assessment submitted indicating recommendations – to be imposed if supported	<b>Generally yes</b>
Roller Shutters	<ul style="list-style-type: none"> <li>Roller shutters on</li> </ul>	No roller shutters	<b>Yes</b>

COMPLIANCE CHECK			
Control	Standard	Proposed	Compliance
	shopfronts are prohibited	proposed	
Public Art	<ul style="list-style-type: none"> <li>Encourage public art integrated into architectural integrity</li> </ul>	No public art proposed	<b>No</b>
Arcades, Through-block Links & Squares	<ul style="list-style-type: none"> <li>Through site link requested by Design Review Panel</li> </ul>	Through site link provided	<b>Yes</b>
Vehicular & Service Access to lots	<ul style="list-style-type: none"> <li>Locate access from rear laneway</li> </ul>	Loading and vehicular access from rear (Pine Lane)	<b>Yes</b>

The issues of non compliance will be discussed below:

### **Urban Design and Building Design**

The application was referred to the Design Review Panel (SEPP 65) on three occasions as well as Council's Urban Designers (all architects). The comments of these specialists are provided in section 3 of this report. The commentary below is a summary of issues with the controls specified in the DCP and should be considered in conjunction with the matters discussed in Section 3.

#### ***Building Use / Ceiling heights / Number of storeys***

The site is located along a Primary shopping street according to clause 2.2, Part F1 of the DCP where 2 levels of retail/commercial space is envisaged. Given the status of the site within an identified primary shopping street, the preference is for commercial uses to be extended into the levels above ground, particularly within the podium of the building.

The subject building is non compliant for these lower levels (as they are used as residential) with each of the lower levels (ground to Level 5) less than the DCP standard for floor to ceiling heights, relating to both the commercial and residential levels of the building. As such, the building presents as 19 levels overall (above natural ground, excluding basement parking), instead of the maximum 16 storeys in the DCP. This is, in part, due to a net decrease in ceiling heights across numerous residential levels of the building.

In this regard, the view has been taken that support for a greater number of storeys (ie 19 in lieu of 16) will only be considered reasonable if the building was contained within the height control (60m) and if the amenity of the lower levels is of an appropriate standard, particularly the lower south facing units that would benefit from greater ceiling heights.

The amended scheme has responded by containing the overall building within the height control of 60m and increasing the rear setback to improve the amenity particularly of the lower south facing units.

#### ***Active Street Frontages:***

The amended scheme provides a through-site link between Oxford Street to Pine Lane that assists to activate the ground floor level of the building. However, at entry from Oxford Street, the retail spaces provide a curvature into the arcade, where there is a preference for a more distinct square-like frontage that will assist activation of these spaces.

Accordingly, it is recommended that the entry to the through site link at Oxford Street be squared off, to provide a more solid retail frontage that predominantly aligns with the street. To ensure compliance with the FSR control is maintained, it is recommended the floor space be redistributed from elsewhere within the building (for example, the additional void area sought above the level 2 communal courtyard area provides for additional floor space that can be redistributed). This is recommended as a deferred commencement matter.

***Street Alignment, Front Setbacks, Separation, Side & Rear Boundary Setbacks***

The proposal does not comply with the front setback controls for Oxford Street which require a two storey base with a two metre setback to the subsequent four storeys then a 6 metre setback to the upper levels.

The applicant maintains that this requirement should not apply because of the existing street frontages of the adjoining buildings. If a site specific solution is to be acceptable, it is considered that the following criteria are appropriate:

- Ground, first and second floors (3 storeys) – Street wall to align with street wall of adjacent buildings (two storeys on eastern edge and three storeys on western edge) with zero side setbacks for at least 12m from the front boundary. The proposal generally complies with this average street wall height.
- A 2-3 storey street wall with balconies contained within the street wall that align with the retail frontage below. The amended proposal satisfies this.
- A greater emphasis on architectural detail to the street wall is necessary. This aspect requires further architectural resolution and is recommended as a deferred commencement matter.
- Replace colonnade with an awning type structure with cut outs for the street trees. The amended proposal satisfies this.
- The street wall fronting Pine Lane should be straight at ground and first floor. The proposal aligns with this at ground floor level only.
- Tower element –
  - A zero side setback is supportable to the western boundary to match the party-wall of the neighbouring building to the west, however, the front setback at the western edge should match the adjoining building to the west (approximately 10m setback) for a minimum width of 3m from the western boundary. This will improve amenity for units in the adjoining building. The amended proposal satisfies this.
  - A 6m setback from the front of the building (not the front boundary) should be incorporated to meet the objective of the DCP. This results in the tower protruding beyond the front alignment of adjoining towers at 251 and 257 Oxford St and further reduces views for each of these adjoining properties. The proposal maintains 6m from front boundary instead, rather than front street wall.
  - The side setbacks to the eastern side need to be considered in relation to the residential building at 257 Oxford Street. A greater setback to provide the required separation under the SEPP is required.
  - Increase the rear setback of tower to improve amenity of rear units and views to the east (particularly those at lower levels) and consider lengthening western rear wind and shortening eastern rear wing. The amended proposal satisfies this.

## **Building Design Controls**

### ***Building Elevations***

The site is in a prominent location in Bondi Junction, near the entry to Oxford Street and has the potential to be an architecturally renowned building within the Bondi Junction locality. However, as outlined by the various urban design advisors, the present scheme requires further resolution of its architectural detailing.

The podium level, street wall, roof resolution and side facades require greater architectural detailing.

Overall, there is a need for high quality facades and building materials that provide a durable and attractive appearance that is not dependent on frequent maintenance. This aspect is included as a deferred commencement matter.

### ***Awnings***

The amended proposal provides an awning type structure to Oxford Street with cut outs for street trees, considered acceptable.

### ***Wind Mitigation***

The applicant has submitted a Wind Assessment Report based on trends in the area (rather than actual testing). This report is inadequate and does not comply with DCP requirements.

The proposal has also deleted the winter gardens from the front (northern) elevation which would have assisted to mitigate the strong wind impacts experienced in Bondi Junction, particularly to the higher level balconies. Further, the report submitted indicates the potential for furniture to fly off a balcony which is unacceptable.

Additionally, wind attenuation measures are considered necessary within the through site link, particularly at the Pine Lane entry to avoid wind funnelling.

Accordingly, further resolution is required in conjunction with the wind specialist, recommended as a deferred commencement matter.

### ***Landscaping***

The amended proposal provides improved landscaping elements for this development. The communal open space has been relocated to the front of the building, atop the podium on Level 2 in the north-east corner of the site considered an appropriate location for such. However, there is a significant undercroft area that will inhibit adequate planting for this zone.

As such, the Design Review Panel and Council's Urban Design advisor have recommended that a double height space (ie two storey void) be created here to improve the amenity, viability and functionality as a communal open space area and the unit above (Unit 3.02) be deleted. This aspect is supported and recommended as a deferred commencement matter.

The deletion of this unit 3.02 will also allow an opportunity to transfer gross floor area from this area to the retail ground floor level to square off the retail frontage and improve their activation to Oxford Street, while maintaining compliance with the FSR control.

At Oxford Street frontage, the street trees are proposed to be retained and protected and this is supported.

### **Public Art**

As part of the deferral process of the application, the applicant was encouraged to consider providing public art within the development in accordance with clause 3.3, Part F1 of the DCP.

Recent amendment of the application makes reference to the applicant being 'committed to providing a contribution towards Public Art' with suggested locations being in the centre of the entry to the through site link from Oxford Street with a value of \$20,000. This amount is considered to be tokenistic in light of industry standards and the likely cost of works (\$36 million).

Discussion with Council's Cultural Development Officer (Public Art Committee representative) outlined that the industry standard is 1% of the development cost for public art works in private development. As the cost of works is estimated at approximately \$36.3 million, the public art contribution would be expected to be around the \$363,000 mark. While this is a considerable amount, it is reasonable to impose a more realistic figure of development cost.

Accordingly, it is recommended this aspect be included as condition of consent.

### **2.1.3.3 Part I1 – Land Use and Transport**

#### ***Parking:***

The proposal provides three levels of basement car parking accommodating 82 vehicles, accessed from Pine Lane at the rear of the site. As this access point is above Oxford Street level due to the topography of the site, part of the car park is above ground. Typically, the controls and preference is to locate all car parking underground.

A summary of the DCP controls versus the proposal is provided below:

#### ***Residential parking: 94 units***

<b>DCP requirements</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Proposed</b>
1 bedroom (56 units)	16.8	33.6	69 residential
2 bedroom (30 units)	12	24	
3 bedroom (8 units)	6.4	9.6	
<b>Total</b>	35.2	67.2	

#### ***Retail and visitors parking (minimum controls apply)***

	<b>Minimum</b>	<b>Proposed</b>
Residential visitors	94 units @ nil spaces for the first 14 units, 1 for every 7 units after that = 11.4 spaces	11 visitor 2 retail
Retail	197sq.m @ 1 space per 30sq.m = 6.6 spaces	
Car share	No DCP control	
Accessible spaces	Included within above rates (condition imposed will ensure minimum 10% of all car parking spaces be accessible)	
<b>Total</b>	<b>18 spaces</b>	

Overall, the proposal generally aligns with the DCP provisions for parking for the development, with the exception that the parking allocation for the retail uses is deficient.

In this respect, compliance with retail and visitor parking should be provided with the reduction in parking occurring to the residential component of the development. Should consent be granted, a condition is recommended to be imposed requiring 11 residential



visitor spaces, 7 retail spaces, 1 car share, 10% of all spaces to be accessible and the remaining 63 spaces be allocated for residential parking, with a limit of 2 car spaces to any one unit.

**Loading facilities:**

The proposal seeks two loading bays at the rear of the site, accessed from Pine Lane. In regards to the loading facilities proposed, the following rates should be considered:

*Loading facilities – minimum rates apply*

	Control	Proposed
Residential	94 units @ 1 per 50 units = 1.8 spaces	2
Shops	197sq.m @ 1 per 400sq.m = 0.5 spaces	
<b>Total</b>	2.3 spaces	

The proposal complies with regard to loading facilities.

**Bicycle parking**

The proposal seeks to provide 104 bicycle spaces for the development (94 residential, 10 retail) located on the ground floor level. The following rates should be considered:

	Control	Minimum	Proposed
Residential bicycle spaces	1 per dwelling	94	94 residential and 10 commercial bike racks, within ground level, totalling 104 spaces
Visitor bicycle spaces	0.25 per dwelling	23.5	
Commercial bicycle spaces	1 per 10 car spaces	1	
	<b>Total</b>	<b>118.5</b>	

The amended scheme provides 104 bicycle spaces in lieu of the required 118.5 spaces. The dedicated areas on the ground floor level for bicycle parking are generous in size for a development of this scale. As such, a condition requiring compliance will be imposed, with adequate space available in the ground floor storage area.

## 2.1.4 Other Matters

**Streetscape**

This matter has been examined and discussed elsewhere in this report. In summary, the outstanding concerns of the streetscape presentation of the development are:

- The retail spaces on the ground level should be designed so as to predominantly align (be parallel) with the street.
- Further architectural resolution is required to the street wall/podium to make this a stronger design element.
- Materials and finishes to the overall building design need further architectural resolution, ensuring that materials are durable and ensuring an overall strategy in the design is conveyed successfully.

As these issues remain, it is recommended they be imposed as deferred commencement matters.

**Solar Access**

The amended plans submitted include 3D shadow modelling for overshadowing of the scheme and elevational shadows for only No 2A Hollywood Avenue. The documentation submitted indicates that 70% of units (ie. 66 units) receive a minimum of 3 hours of direct sunlight between 9am-3pm in mid winter (winter solstice), compliant with the DCP. While 17% of units (ie 16 units) will receive 0 hours of direct sunlight during this time, being those apartments primarily located at the rear south-western section of the building.

In relation to adjoining properties, review of the documentation indicates that there will be increased morning shadowing primarily over Pine Lane, Hollywood Ave, Eora Park, 2A Hollywood Ave and the rear of 251 Oxford Street between 9am to midday. While in the afternoon, shadowing will occur primarily over Pine Lane, 2A Hollywood Avenue and 1, 3 and 5 Waverley Crescent.

In this regard, 2A Hollywood Avenue ('The Oscar'), being the most affected will experience increased overshadowing from the proposed development for 4 hours between 9am and 1pm whilst the north-west façade experiences overshadowing for 2 hours between 9am and 11am. The documentation indicates that lower levels (one to thirteen) on the north-east corner of that building, being 13 apartments will be significantly affected by the development during this period. However, these apartments will still have access to sunlight prior to 9.30am and then from 2pm.

While 1, 3 and 5 Waverley Crescent will experience increased overshadowing midday onwards, they will still have access to sunlight prior to midday.

Notwithstanding this, the proposed building now is generally compliant with the core bulk and scale controls and additional overshadowing is expected given the increased density envisaged by the controls.

#### ***Land dedication***

The former development application for the site (DA 334/2009) provided a 3m wide strip of land along the rear (Pine Lane) frontage for the purposes of road widening. The current amended proposal incorporates this above ground, however below ground, the basement extends to the rear boundary (with the exception of a 1m x 2.225m trench to the ground floor – mezzanine level) rather than continue the land dedicated area.

The applicant benefits from the ability to incorporate this land into their site area, for the purposes of calculating gross floor area. However, concern is raised that if a land dedication is to occur, it should continue over all levels of the site – to the centre of the earth. This enables opportunity for public domain works (street planting, services, underground piping) to occur without incident and avoid the issue over ownership, liability and legal implications in the future.

Accordingly, this matter is included as a deferred commencement matter.

#### ***Through site link***

There is no requirement in the DCP for the provision of a through-site link on this site (other sites are identified in the Bondi Junction area for this element). This seems to have been included on the advice of the SEPP 65 Design Review Panel. It's utility is arguable as the rear lane is primarily a service lane with limited parking and no direct connection to any high use areas.

As the through site link is proposed as a pedestrian access, the applicant proposes it to be accessible to the public between the following times:

Monday to Saturday: 6.00am to 8.00pm

Sunday: 7.00am to 5.00pm

In this regard, it is recommended the access be as a minimum above and extended to align with the trading hours of the retail uses contained within the link, which could be addressed via a condition of consent.

**Privacy**

The proposal has the potential to impact on the privacy of adjoining properties.

The development includes units orientated solely to the eastern side of the site that incorporate large areas of glazing and private balconies. While privacy mitigation measures such as privacy louvers and screening are proposed, the detail of such is lacking. Plans indicate sliding screens, however these are only over selective openings up to level 12 (to align with height of adjacent building at 257-259 Oxford St). Above level 12, no privacy measures are proposed along the eastern elevation of the building.

On the western side of the development, privacy louver screens are proposed to minimise overlooking of the adjacent building at 251 Oxford St. As such, on the north-western side (fronting Oxford St), screens are proposed up to level 13, while to the south-western side (fronting Pine Lane) screens are proposed up to level 17. While additional boundary details have been provided, they indicate 'privacy louvers' without detailing whether they are fixed or operable, where preference is that they be fixed.

While no privacy measures are sought to the upper levels of the building.

Additionally, terraces are proposed on level 2 to apartments that are sought to be constructed to the site boundary. As such planter boxes have been designed along the perimeter of these terraces which provide limited privacy mitigation due to their small size (200mm wide) and limited capability for plants to successfully grow there. To ensure sufficient screen planting can occur, it is recommended these planters be widened to a minimum of 400mm width.

Overall, the attention to detail of privacy measures is limited and it is recommended an overall strategy occur properly detailing proposed measures for mitigating impacts. In this regard, it is recommended a deferred commencement matter be included that requires the finishes, materials and detail of privacy measures be submitted for the entire building.

**ESD (Green Star Rating & BASIX)**

The proposal meets BASIX compliance.

**Views and view sharing**

The subject site is currently under developed, relative to its immediate neighbours on Oxford Street. The site currently provides for a 'gap' in the Oxford Street streetscape and high-rise residential units to the south enjoy views to the harbour and an aspect over the site.

In this regard, it is also noted that the previous approval for the site (DA 334/2009) allows for a tower development for the site (approved as 13 commercial storeys with a height of approximately 51m). This consent remains active and results in the loss of views, particularly to the properties to the south.

As part of the former DA (DA 334/2009), the 'Oscar' towers (2A Hollywood Ave) located behind the site on the corner of Hollywood Avenue and Waverley Street was considered the most severely impacted building. At the time of that assessment, units within the Oscar residential flat development (2A Hollywood Avenue) were visited, a site that comprises two (2) tower forms, one tower A directly behind the subject site fronting Hollywood Avenue and another lower, tower B fronting Waverley Crescent. The assessment report of the time commented that:

*Units in tower A from approximately level 7 upwards will be impacted by the development, in terms of a loss of their north aspect over the site and, in particular,*

*the loss of harbour views. Lower units generally do not have harbour views and would be impacted in terms of a loss of solar access only. The view loss impacts were considered to be most acute from levels 7 to 15 for those units that enjoyed an aspect over the subject site. In particular, the proposal would result in a loss of significant harbour views for some units, such as a view of Clark Island. However, higher level units such as those on level 15 also had access to alternative views to the coast that would not be affected by the proposal.*

*In respect to tower B there was a similar pattern of impact in terms of view loss, that being units on levels 7 to 12 with an aspect over the site would be impacted in terms of their harbour view and higher level units had access to alternative coastal views. However, tower B was well setback from the subject site and shadow impacts on this tower were much less than tower A and the harbour views available to these units are more generally not as extensive, e.g. available from portions of the balcony areas only, as those available to tower A.*

*The view loss and solar access impacts of the development are significant but commensurate with the now gazetted planning controls for the site (noting that the current controls provide for a 60 m height limit).*

As such, the same argument occurs with the amended scheme presented, the difference being a greater view loss will occur – both of the harbour and district due to the increase in scale from previous consent.

The current proposal will impact on iconic views from these properties at the rear (south), noting that since consent was granted in 2009 for the former application, recent developments at 5-7 Waverley Crescent and 42-48 Waverley Street have also been constructed whereby views will also be impacted upon. Additionally, ocean and district views will be impacted upon for 251 Oxford Street.

As part of the current assessment, an inspection from 251 Oxford Street (adjoining to the west) occurred (level 14 unit being the upper north-eastern unit). It was revealed that the front setback of the tower impacts on district views to Dover Heights and North Bondi, while the main form of the tower would remove secondary views of the ocean enjoyed by the units of 251 Oxford St that directly abut the subject site. In this regard however, views of the City skyline, and Harbour Bridge would be maintained.

Overall, having regard to the Tenacity Consulting v Warringah Council [2004] NSWLEC 140) principles, to avoid any additional view loss, would be to refuse the application. However, having regard to the newly gazetted controls for the site, any compliant building (which the amended scheme now provides for) will impact on these iconic views enjoyed by adjoining properties.

### **Access for People with Disabilities**

The proposal seeks to provide 17 adaptable residential units, considered to meet Australian Standards for a development of this size.

Further, disabled access is available through the principle entry of the building and lift access is also available throughout the building to all levels. Standard conditions are imposed to ensure compliance in this respect.

### 3 REFERRALS

#### 3.1 External

##### ***SEPP 65 – Design Quality of Residential Flat Development***

The original application (lodged 4/9/12) was referred to the Joint Waverley / Randwick Design Review Panel and the comments received formed part of the deferral of the application. The amended plans (lodged 21/12/12) were then also referred back to the Panel for comment. Following further amended plans being lodged (28/3/13), these were again referred back to the panel and their most recent comments are provided below:

*The Panel is aware of the previous history of this application and this is the third time that it has reviewed the proposal prepared by the architect for this design. The proposal that is the subject of this report has been modified in some respects since the Council's Senior Assessment Group recommended its refusal.*

*Philip Thalys, as the architect for a separate proposal in the vicinity of Oxford Street, has declared an interest.*

##### *1. Relationship to the Context of the Proposal*

*Subject to the changes in built form suggested below the Panel considers that the proposed building sits satisfactorily in its context and on its site and is well located in relation to the buildings to its east and west.*

##### *2. The Scale of the Proposal*

*The proposed building, at 60 metres, is within the height stipulated by the WLEP 2012 and is in scale with the existing and emerging scale of this part of Bondi Junction.*

##### *3. The Built Form of the Proposal*

*The form and treatment of the Oxford Street podium and awning as now amended are suitable for the street frontage*

*It is the Panel's view that the southern portion of the tower, visible from Hollywood Avenue and as seen above surrounding buildings, is poorly resolved. There is a distinct feeling of front and back. In order to improve Pine Lane and views along it and the appearance of the upper floors of the tower, as well as improving the outlook from the southwestern unit consideration should be given to:*

- Redesign of the units on both sides of the central hall south of the core so that either both have the same setback of 8m from the southern boundary. or that the western wing could be lengthened and the eastern wing shortened (this would have the dual benefits of reducing the length and bulk of the eastern façade, and would allow units in the least inviting s-w corner to get sun and views to the east along the lane).*
- Eliminating the s-w 'cut out' proposed for communal use, which in the Panel's view would offer little amenity*

*As noted in the Panel's December report, providing the small retail area located on the Pine Lane frontage with a show window onto the car ramp would enhance its*

*viability. The opportunity to providing further retail frontage to the lane by reducing the width of the loading dock should be investigated.*

*The Panel advises that no basement should extend under the areas to be dedicated to Council as public domain. Private basements under public space limit future street trees and services provision and can create long-term maintenance and liability problems. This applies to both the street and lane frontages.*

*The Panel understands that there is an issue with the setback of the tower from the adjusted Oxford Street frontage, in terms of measurement relative to the DCP intent. The Panel considers that the proposed setback is appropriate, and that a larger setback would not necessarily assist the streetscape. It would likely also result in a 'fatter' building, with a reduced eastern setback and less internal amenity.*

#### *4. The Proposed Density*

*The proposed density is consistent with the WLEP 2012 and appears to be suitable to the site.*

#### *5. Resource and Energy Use and Water Efficiency*

*As stated in the Panel's Dec 2012 report, "The proposed balconies and sliding screens should provide all apartments with adequate solar protection.*

*A reasonable proportion of the apartments would enjoy cross ventilation. However it would be desirable for some of the kitchens and bathrooms to have windows to provide daylight and fresh air, as set out in the RFDC. (eg Unit 7.5 could easily have an open-able window) A number of apartments would benefit from a plenum within the foyer ceilings to the exterior to permit cross ventilation.*

*An acoustic report needs to confirm whether comfort levels are achieved in the apartments when natural ventilation is available and on the balconies. Road and mechanical plant noise is of concern to the Panel.*

*Window operation needs to be clearly marked on the elevations for assessment of ventilation.*

*Ceiling fans should be provided and clearly marked on the plans. These have the potential to seriously reduce energy use when used in lieu of air conditioning. The Panel does not support the use of air-conditioning".*

*The Panel supports the provision of share cars on the site.*

#### *6. The Proposed Landscape*

*Details of soil depths need to be provided.*

*The large southern under-crofted landscape area and position of air conditioning units to the Level 2 Landscaped Communal Open Space is of concern to the Panel. The large southern void appears to be an improbable solution, with minimal structure, inadequate soil depth, questionable accessibility and utility. It is completely unrelated to the building's overall form and should be deleted or substituted for apartments, allowing height to be reduced in this part of the tower.*

*The Panel suggests that the new communal space above the podium in the NE corner is a good initiative. However the space is too deep – it should either be 2 storeys in height, or the undercroft area should be substantially reduced, or the unviable planting areas deleted.*

#### **7. The Amenity of the Proposal for its Users**

*As stated in the Panel's Dec 2012 report, "The apartments are well planned and the building should provide an overall high level of amenity for its occupants, although it is unclear how much solar access will be enjoyed by the unit on each floor immediately to the south of the core.*

*The ground floor foyer planning is well resolved, and should offer a good sense of homecoming. The Panel does not have an issue with the curved glazed walls on either side of the entry, nor with the spill out of commercial / retail tenancies into the open air areas.*

*The provision of an open end to the residential lobbies on each level is commendable, and the core and lobbies are compactly arranged".*

*The relocation of the communal outdoor space to the roof of the northeast corner of the podium is supported. It is suggested that some enclosed facilities could be provided in the covered part of this terrace.*

*The Panel sees little value in the proposed terrace on the southwest corner, which as indicated above should be eliminated from the design.*

*Further "It is suggested that a communal area could also be provided on the roof instead of the inset terrace on the south flank. This would enjoy spectacular views and if suitably designed need not impact the private open spaces on the floor below and a separate small lift could be provided to it.*

*The rooftop apartments need shelter to their outdoor areas and should have sun shading and weather protection to their extensive glazing. An uncovered roof terrace is very inhospitable as it is too exposed.*

*Privacy screens need to be reviewed for their effectiveness. Privacy to Unit 2.05 terrace needs to be improved.*

#### **8. The Safety and Security Characteristics of the Proposal**

*As stated in the Panel's Dec 2012 report, "This should be satisfactory. The upgrading of Pine Lane and the through site link will improve neighbourhood permeability and natural surveillance. The proposed new residential entry from Pine Lane will also increase activity and therefore safety". The Panel also strongly supports the widening by dedication of the lane, which will improve access, sightlines and potentially the environment for the wider benefit of this part of Bond Junction.*

#### **9. Social issues**

*Increasing the residential population of Bondi Junction is supported. The Panel would support the provision of affordable housing units on the site.*

#### **10. The Aesthetics of the Proposal**

*The proposed building has the potential to be a commendable addition to Bondi Junction's building stock, however its architectural character is the least resolved part of the revised DA". In the opinion of the Panel this could still be the case, however the DA needs to represent how this desired quality is being achieved. The DA in its current level of design resolution does not give such confidence.*

*The Panel expressed concern regarding the lack of an overall strategy in the design of the form and facades. At present each façade appears to react to the adjacent condition (such as the grafted on frame to the eastern façade), rather than part of a coherent and elaborated design. The side and rear facades appear too perfunctory, with plain, unprotected openings punched in walls with no material character.*

*The design's success will depend on the quality of its detailing. Large scale part elevations/part sections will need to be provided, detailing the intended façade design, providing indicative construction details and representing proposed materials and colours. In particular the Panel highlights the need for a durable and characterful façade, that is not dependant on too-frequent maintenance, which would be a heavy impost on the Owner's Corporation. Currently Bondi Junction has few examples of such high quality facades and materials.*

*Issues such as the resolution of the curved glazed façade, the podium and the roof-top will require considerable skill. Currently there is no clarity of elements and materials in the typical bays on the east façade.*

*It is recommended that further development of the design of the facade is undertaken. The Panel is concerned with the large amounts of fixed unshaded glass, the painted surfaces, reliance on awning windows (which give very poor performance for ventilation), the lack of articulation and sunshading on the west, the glass balustrades (also a privacy issue) and the heavy frame defining the extent of the privacy screens on the east façade.*

*The glazed elements (window mullions, balustrades) do not appear to have a logic or consistency, which would result in a fragmented façade rather than a coordinated one. In particular the curved corner needs to be seamlessly resolved, or it risks appearing as a crude faceted element – which is not appropriate for the most prominent part of the façade.*

*The external shading / privacy blades are supported in principle, however the use seems to ad hoc, and their material and fixing undefined.*

*The thin veneer of 20mm sandstone proposed on the podium is not convincing. 50mm would be the minimum thickness for a durable finish, and 75mm is preferable. How does the sandstone fit into the overall palette of the building, as opposed to being an arbitrary appliqué?*

*The Panel supports the high quality awning to Oxford Street and recommends that detailed drawings be included in the consent.*

#### *Summary and Recommendations*

*While the Panel is encouraged by the significant changes made by the applicant and the new architect, the scheme does not as yet demonstrate sufficient design*



*excellence. The current architect should be retained to complete design and its documentation, and this should be covered by an appropriately drafted DA condition.*

*It is the Panel's view that this is a good proposal that subject to the changes in its planning suggested above being carried out is worthy of consent.*

*However, it is also the Panel's view that the level of detail provided on the design of the facades is still inadequate. It is recognized that considerable and expensive research and design work are required to develop a good façade design, which a developer is understandably reluctant to spend on without some certainty of approval. It is suggested that some form of two-stage approval process could be considered in this case and indeed for the other major projects at present being reviewed for approval in this location.*

**Planning comment:** The Design Review Panel has an advisory role for assessment of development applications where SEPP 65 is applicable. Following this March 2013 meeting with the Panel, the applicant sought further amended plans to be lodged (19/4/13) to address matters discussed, which form the basis of this assessment report.

### **3.2 Internal**

The original application (4/9/12) was referred to the various internal Council specialists and the comments received formed part of the deferral of the application. Upon the application being amended on 21/12/12, 28/3/13 and 19/4/13, where relevant additional comments were sought. The latest comments from each are provided below (copy of all comments available on file) – comments provide are generally addressed in the recommended conditions of consent.

#### **Urban Design**

Council's Senior Strategic Planner-Urban Design (who is also a qualified architect) was critical of the original and amended proposals and supported many of the comments of the SEPP 65 Panel. The most recent comments in response to amended plans lodged 19/4/13 are as follows:

##### *SEPP 65 Panel comments*

*The comments made by the panel are supported and particular points emphasised below. It is strongly recommended that each time revisions are made to the design it should be represented to the panel.*

##### *Active Frontage:*

*The active frontages on the ground floor are supported. The design shows a curved wall at ground floor leading one to the through site link. The retail frontage should be revised to predominantly align with the street. See Figure 1 below.*

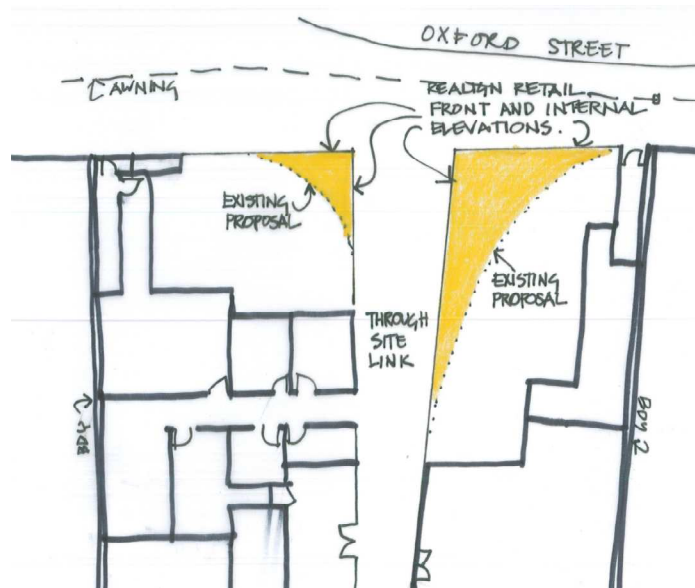


Figure 1: Extract of ground floor plan showing how glazing to retail should be re-aligned. Yellow denotes new internal area. Dotted line shows location of glazing on DA drawings.

#### Void over retail

Section AA (Drawing DA-300) and the ground floor mezzanine plan (Drawing DA-205) show a void over the retail. Per the DCP Part E1 clause 1.2 the first floor of buildings must be designed and used for commercial purposes but not limited to retail. As such the first floor should be filled with either more retail space or a commercial tenancy. Note that the min. floor to ceiling heights per the DCP must be provided.

#### Pedestrian through site link

The through site link is supported. However it should include wind attenuation at the Pine Lane entry to avoid wind funnelling. A successful example of attenuation is at the entry to the Mid City Centre (next to the Theatre Royal) on King Street, Sydney where two panes of glass have been offset to reduce winds. Detailing for wind attenuation should be developed in conjunction with the applicants wind specialist.

#### Storage

Min. storage volumes per p.82 of RFDC have not been provided in every unit.

#### Wind

The wind study is inadequate and does not comply with DCP requirements. It states issues with furniture on level 18. I am not sure how we address this issue but having furniture fly off a balcony is unacceptable. Further resolution is required in conjunction with the wind specialist

#### Architectural resolution:

The top of the building should provide a quality roof design, which contributes to the overall design and performance of the building. The roof design should integrate the roof into the overall facade, building composition and desired contextual response. The extra storeys that have been squeezed into the building (over and above the DCP maximum of 16 storeys) will not be supported until a satisfactory integrated roof design is proposed.

*The Oxford St podium should be of a higher quality architectural finish with high quality detailing.*

*Paint finish should be avoided. Instead, high quality, durable materials with low maintenance are preferred. Additionally, the proposed 20mm thick sandstone cladding to the street wall is not durable enough. The finishes should be revised and reworked. A detailed materials and finishes schedule incorporating samples of real finishes is required so that the materiality of the building can be better understood. Additionally, revised 1:50 sections and elevations of the podium and tower facades are required.*

*The elevations could be further articulated with shading and weather protection over the glazing as appropriate for the particular solar aspect of each opening.*

#### *Communal Open Space*

*The relocation of the communal open space to the north side of the building is supported. However, the portion of the communal open space located under the tower will be dark. It should be redesigned as a common room or as a double height space in order to gain greater solar access.*

#### *Public Domain*

*Footpath improvements should be constructed to Council requirements. Council is currently undertaking the Bondi Junction Complete Streets Project which may suggest improvements to the public domain on Oxford Street.*

*Street trees and furniture must be provided to Council's Landscape Architect's requirements in keeping with the Bondi Junction Public Domain Technical Manual. Additionally, two street trees should be provided in Pine Lane and at least one more on Oxford Street. An internal referral to Council's Open Space Planning Manager, Bianca Simpson is required.*

*A land dedication plan should be submitted for assessment.*

#### *Bicycle Parking*

*Twenty percent of the required commercial bike parking spaces should be provided on Oxford Street per Council's Bondi Junction Public Domain Technical Manual. A landscape plan locating the spaces should be internally referred to Council's Open Space Planning Manager, for comment.*

### **Heritage and Urban Design Advisor**

Council's Heritage and Urban Design Architect made the following comments:

#### *Site Description*

*The site located to the southern side of Oxford Street is occupied by two late 20th Century commercial buildings with retail street usage.*

#### *Current Status*

*The buildings are not listed in Bondi Junction LEP 2010 as items of heritage significance and have limited streetscape value.*

#### *Proposed Development*

*The application proposes demolition of the existing buildings and construction of an 18 storey over ground and three basement levels retail and residential building with vehicle access from Pine Lane.*

### *Comments*

*As with the previous proposal for this site, no issues are raised in relation to demolition of the existing buildings. It is noted that the site is in close proximity to the former site of Waverley House. A watching brief should therefore be established during the demolition / excavation phase to ensure identification/ recording of any artefacts relating to previous occupation of the land.*

*The extent and variation in curved forms employed in the proposed structure and adjacent buildings presents as a somewhat erratic composition. Contrary to intentions the extended use of these forms on such varied floor plates tends to remove any cohesion between the prominent structures rather than provide a convincing urban grouping. Given the exposed site and relationship of the building to adjacent tall structures a wind study is considered essential prior to any submission.*

*The irregular plan form of this and adjacent towers emphasises the role of the building podium within the streetscape. Planning at street level appears to raise issues of effective circulation. The converging shop/cafe fronts abutting the main entry are shown with outdoor seating, an aspect likely to impinge upon access to the principle lobby. Further the continuation of this access through to Pine Lane whilst providing merit in terms of overall circulation appears unresolved at the Pine Lane entry/exit. The successive stairways, location of secure doors, control of wind and the safety of pedestrians in proximity to the dual vehicle entries should be further resolved.*

*Aesthetically the proposal appears to combine a varied assembly of stylistic references the crowning aerofoil, grid framed podium and curvilinear tower derive from varied precedents with the amalgam not necessarily cohesive. Treatment of the podium could well be improved by lighter articulation rather than continuation of the masonry frame employed on the adjacent building to the east. Generally the proposed external finishes are of a higher standard than seen in the adjacent structures – further supporting the need for this to be an anchoring element within the group rather than paying undue reference to the adjacent irregularly placed towers set in close but unaligned proximity.*

*A more considered treatment of the podium would also provide planting extending well into the podium. Substantial planting within the podium appears to have been omitted on the basis of the two street trees (one shown rising to the 9th storey on elevation). The two street trees appear somewhat at odds with the proposed development and may be substantially impacted by new wind patterns and construction. It may be an appropriate time to consider the future of the trees. The trees appear as remnants rather than part of a cohesive pattern of planting. The trees would have more relevance if repeated, but at present appear to detract from the overall urban setting. It may be a better outcome to replace these trees with regular avenue planting along the street frontage from Bondi Road to Hollywood Avenue providing shading and greening of the setting.*

### *Recommendations*

*To enhance the amenity and quality of the urban setting it is recommended that:*

- The design incorporates a more refined articulation of the building podium rather than a continuation of the adjacent large framed podium.*
- Planning of the ground floor entry including the convergence of retail tenancies and the passageway through to the rear lane is reconsidered in terms of movement, safety, wind flow and street presentation.*
- All signage locations and external colours should be clarified.*

- *Landscaping including the future of the two street trees be further considered.*

### **Environmental Health Issues**

Council's Environmental Health Officer made the following comments:

*This section has reviewed the preliminary environmental site assessment prepared by Environmental Investigation Services and dated December 2012 which reveals that a detailed environmental site assessment (DESA) is required to be carried out.*

*The proposal is unsatisfactory to this section until the following information is provided for further comment and found to be satisfactory:-*

*A detailed environmental site assessment will be required to be carried out in accordance with the NSW EPA Contaminated sites guidelines certifying that the site is suitable or will be suitable, after remediation for the proposed use.*

*Planning comment:* This aspect is recommended to be addressed via a deferred commencement matter.

### **Waste Management**

Council's Waste Management Officer made the following comments:

*I am satisfied that the submitted Waste Management Plan complies with the Waverley Development Control Plan for the residential waste generation rates. However, Council is concerned that the retail / commercial space generation rates are underestimated for the site location. All new builds are assessed for the maximum waste generation rates for retail space. Therefore amendments have been made to accommodate these rates and conditions shall be imposed to ensure compliance in this respect.*

### **Vehicular Access**

Council's Manager Technical Services made the following comments:

*The plans for the above development have been examined and the proposal for portions of the building on the Pine Lane frontage to encroach out into the 3m wide strip of land being dedicated as road reserve is unsatisfactory.*

*I wish to advise those parts of the building approved for construction in the 3m wide future road reserve area shall be finished at a level below the Pine Lane carriageway that firstly provides a clear area along the entire frontage for the laying of public utility authority services in what will be the future footpath area and secondly, provides a sufficient depth of soil for street tree planting.*

*It is recommended the applicant be required to submit amended plans complying with the above.*

*Planning comment:* This aspect is recommended to be addressed via a deferred commencement matter and a full setback for all structure in the rear setback area is recommended.

**Traffic**

Council's Traffic Management Officer made the following comments:

*An assessment of the likely traffic impacts of the development has been undertaken by GTA Consultants in part 7 of a "Transport Impact Assessment" report dated 29/8/2012.*

*GTA Consultants is a well known in the traffic and transport engineering field and has considerable experience in preparing traffic and parking reports*

*I have read and assessed the GTA report and have no objections to its content and conclusions.*

*Traffic generation rates for both the residential and retail components of the development have been assessed using the RMS (former RTA) document, "Guide to Traffic Generating Developments". This document is currently used by Councils and consultants in Sydney and throughout NSW to determine traffic generation rates and impacts for a variety of developments.*

*The traffic movements generated by the development for the residential and retail components using the RMS document as follows:*

<i>Peak Hour Movements:</i>	<i>27 vehicles /hour</i>
<i>Daily movements:</i>	<i>226</i>

*These above two vehicle volumes do not take into consideration the vehicle movements that are already occurring in Pine Lane from the developments at 253 and 255. If they did, the resulting movements in the lane would be less than if it were a "greenfield" site.*

*The movements into and out of Pine Lane will also be split with some drivers travelling to and from the site via Waverley Crescent/Bondi Road and some to and from the site via Hollywood Avenue.*

*The intersection of Hollywood Avenue at Pine Lane is limited to a left in, left out movement and operates at a satisfactory level of service. The development with its increased traffic movements is considered will have minimal impact on that intersection and nearby intersections.*

*It should also be noted the site is the subject of a 3m wide road widening along the Pine Lane frontage. The widening will result in the carriageway in Pine Lane being widened to improve two way movements.*

*With regard to large vehicle access during construction, that matter will be the subject of discussion with the builder before the Construction Certificate is released. A full construction vehicle and pedestrian plan of management (CVPPM) will need to be submitted to Council for approval under a condition of development consent. That plan of management will need to detail the type, size and number of trucks that are associated with the site during demolition and construction stages, how those trucks will enter and exit the site, the truck waiting area remote from the site, any works/construction zones.*

*Works cannot commence on site until the CVPPM is approved by Council.*

*Non compliance with the development consent and CVPPM by the builder can result in the issue of fines.*

### **Building Code of Australia Compliance**

Council's Building and Fire Safety Officer made the following comments:

*The subject application has been accompanied by:*

*A Building Code of Australia Assessment Report dated 19 December 2012, report no. 2012/0649 R2.0 and prepared by Steve Watson and Partners Pty Ltd.*

*The report indicates that "The design is capable of complying with the requirements of the relevant sections of the BCA subject to resolution of the identified areas of non-compliance and compliance with recommendations provided within the report. Notwithstanding, the development adequately satisfies the intent of being able to comply with the requirements of the BCA for the purpose of DA submission."*

*In light of the above and given that the proposal involves total demolition and rebuild, it is the responsibility of the Certifying Authority and PCA to ensure that all works comply with the BCA. In this regard, should the application be approved then standard conditions shall be imposed.*

### **Public Domain**

Council's Strategic Tree Management officer made the following comments:

*Situated on the footpath at the front of the above property are two street trees. Tree 1 is a Eucalyptus botryoides (Bangalay) and tree 2 is a Grevillea robusta (Silky Oak).*

*All tree protection specifications for tree protection of Tree 1 – Eucalyptus botryoides listed in Appendix 4 and 5 of the arborist's report submitted by Tree IQ dated 1 August 2012 are to be included in the conditions of consent for tree protection.*

*The recommendation for removal of Tree 2 – Grevillea robusta in the arborist's report submitted by Tree IQ dated 1 August 2012 are to be included in the conditions of consent.*

*Additional conditions provided to be imposed upon consent being granted.*

### **Tree Preservation**

Council's Tree Management Officer made the following comments:

*The landscape plan presented is lacking in detail for me to be able to do a complete assessment. Issues that need clarification are:*

- There should be a greater representation of local/native species used on the site.*
- The planting palette provided are all plants that should be able to thrive on the site, however, it is not possible to distinguish the planting location of individual species, therefore it cannot be determined if sufficient planting space has been provided for the nominated species.*
- There are concerns that there is insufficient space to plant the clump of Cupaniopsis on the second level. Planting centres are very close and there is no indication of the depth of soil they are to be provided with. In this location, with the surrounding building, and competition due to the close planting the selected species are likely to*

'stretch' and become poor specimens. A reduction in numbers or change in species is recommended.

- Consideration should be given to extending the planting area/tree pit to under the area of decking to allow for more root volume to be achieved. More details regarding this would be required.
- There is to be a minimum representation of 50% native species used across the site (represented in each category of trees, shrubs, ground covers)
- Planting volumes need to be sufficient to support the proposed species. For any trees to be planted, details of root volume provided and details of tree pits is required.
- Tree pits are to be extended to include the void under the decking area.
- Accordingly an amended landscape plan is required to address the above matters.

### **Disability Access**

Council's Community Worker Older People and Access made the following comments:

#### *Disability access*

The proposal is required to meet relevant Australian standards for disability access and mobility. The DA should be assessed against requirements for adaptability and accessibility in Council's DCP, the BCA and Access to Premises Standards.

#### *Key design features for accessibility include:*

- Level access from the footpath to the primary entrance of the building.
- Accessible level entrances, adequate circulation space, and a continuous path of travel to and from essential amenities and facilities
- Adequate widths of pathways and corridors to enable passing and turning spaces for users of wheelchairs or mobility scooters.
- Doors that are easy to open and enter such as installation of automatic doors and accessible lift to connect each floor
- Provision of accessible toilets in public areas

#### *Common barriers to access include:*

- Heavy doors, narrow doorway entrances and poorly located door handles
- Entrances that are not aligned to existing footpaths
- Non level entrances to shops and facilities
- Floor surfaces and treatments that can become a trip hazard or slippery
- Poor way finding
- Cluttered entrances and pathways that create a barrier to a continuous path of travel such as inappropriately placed seating and promotional signage
- No level access to balconies within accessible units
- Barriers to accessing communal areas and facilities

#### *To avoid these common barriers from occurring it is recommended that:*

- an Access Specialist is engaged to conduct an access audit of the plans to provide advice on detailed design elements and at occupation certificate stage to ensure compliance

#### *Comment on the proposal.*

##### *Entrance and arcade*

- It appears there is a separate accessible lobby and lift entrance to upper floors. This is not supported. The design should support equitable, independent and dignified access for people of all abilities.



- *An accessible toilet located on the ground floor and available for public use is noted and supported*

#### *Parking*

- *12 mobility car parking spaces are noted and supported. These should be located close to lift entrances.*

#### *Accommodation*

*There is a need for quality, affordable and accessible housing within Waverley. Feedback from residents suggests that people prefer to live in housing with extra rooms to house visitors, for storage and for study or recreational purposes. Access to outdoor areas and communal areas is important when people are living in high density unit blocks. The inclusion of space for laundry facilities in units is also important, especially for older people and people with disability.*

- *The inclusion of accessible units are noted and supported. The units should not be clustered together but rather spread throughout the development and should include both one and two bedroom units.*
- *Consideration could be given to designing units to the platinum level of the liveable housing design standards.*
- *Inclusion of balconies and communal outdoor spaces is noted and supported*
- *Less studios and one and two bedroom units with study areas is noted and supported.*

## **4. PUBLIC SUBMISSIONS**

The original application (plans lodged 4/9/12) was notified, advertised and site notice erected for 14 days in accordance with *Waverley Development Control Plan 2010, Part C3 – Advertising and Notification*. Thirteen (13) submissions were received.

The application was amended (plans lodged 21/12/12), it was renotified. Twelve (12) submissions were received.

Upon the application being amended again (plans lodged 28/3/13 and 19/4/13), each was notified. These notification periods overlapped in part, a summary of objections received for each of these amendments will be discussed simultaneously.

Six (6) submissions were received. The issues raised in the submissions are summarised and discussed below.

#### **Plans lodged 28/3/13 and 19/4/13**

<b>Ref. No.</b>	<b>Property</b>	<b>Location</b>	<b>Summary of Objections</b>
5	One submission representing: <ul style="list-style-type: none"> <li>• Owners of 251 Oxford St (known as 'The Harley')</li> <li>• Owners of 2A Hollywood Ave (known as 'The Oscar')</li> </ul>	Adjoining mixed use buildings	<ul style="list-style-type: none"> <li>• Reiterate previous submission;</li> <li>• Previous history provided;</li> <li>• Excessive bulk, height and scale – need to demonstrate proposal is not an overdevelopment even if it complies with key planning controls;</li> <li>• Overshadowing / Solar</li> </ul>

Ref. No.	Property	Location	Summary of Objections
	<ul style="list-style-type: none"> <li>257 Oxford St as (known as 'Harbourview')</li> </ul>		<p>access particularly to lower level units adjacent;</p> <ul style="list-style-type: none"> <li>Loss of views and vistas;</li> <li>Request Dilapidation Report &amp; Photographic Survey prior to and after construction;</li> <li>Excavation impact;</li> <li>Pedestrian Wind Environment Statement submitted advises no wind tunnel testing or modelling undertaken &amp; recommendations are 'in principle' only, need to actually carry out specific modelling &amp; testing;</li> <li>Traffic impact – existing traffic issues will be worsened, congestion/ access in Pine Lane;</li> <li>Construction Management Plan inadequate given the chronic traffic issues in locality;</li> <li>Inadequate acoustic assessment report;</li> <li>Loss of privacy / overlooking;</li> <li>Inappropriate vegetation removal on Oxford St;</li> </ul>
6	Suite 105/251 Oxford St	Commercial suite in adjoining mixed use building to west	<ul style="list-style-type: none"> <li>Traffic impact, existing traffic issues will be worsened / congestion / access in Pine Lane;</li> </ul>
2	Suite 308/251 Oxford St (known as 'The Harley')	Commercial suite in adjoining mixed use building to west	<ul style="list-style-type: none"> <li>Front balconies will look directly into author's consulting room – loss of visual and acoustic privacy;</li> <li>Disruption and impact to business during construction / loss of income;</li> </ul>
1	1302/251 Oxford St	Residential unit in adjoining mixed use building to west	<ul style="list-style-type: none"> <li>Excessive bulk, height and scale – Council policy results in buildings</li> </ul>

Ref. No.	Property	Location	Summary of Objections
			<p>disproportionate to neighbouring properties;</p> <ul style="list-style-type: none"> <li>• Excessive construction disruption / structural stability;</li> <li>• Safety issue of removing Asbestos from site;</li> </ul>
3	1402/251 Oxford St	Residential unit in adjoining mixed use building to west	<ul style="list-style-type: none"> <li>• Insufficient side and front setbacks;</li> <li>• Loss of privacy – balconies between the two buildings will be too close (1.5m) / Front balconies will look directly into author's unit;</li> <li>• Loss of views (Bellevue Hill &amp; Bondi) – continual loss of panoramic views over time;</li> </ul>
4	1401/1 Adelaide St (known as 'Eclipse')	Unit in vicinity (to north)	<ul style="list-style-type: none"> <li>• Loss of views;</li> <li>• Excessive scale;</li> <li>• Property devaluation;</li> </ul>

The issues raised to the original plans and various amended plans are discussed below:

**Issue: Traffic impact – during and after construction, access in Pine Lane, inadequate parking in area during construction / Development would block exit from garage / existing traffic issues will be worsened, congestion / Increased development impact on local area – road conditions deteriorating / Trucks are often directed to use Birrell St – request for alternate route / Construction Management Plan inadequate given the chronic traffic issues in locality / request loading bay to be located on Oxford St frontage;**

**Planning comment:** These aspects have been previously discussed in detail within the report (see 'Traffic' referral).

**Issue: Noise impact / Inadequate acoustic assessment report / Impact of construction – noise & dirt / feeling of living in constant construction zone / Emissions during construction (dust and noise) / Disruption and impact to business during construction / loss of income / Request for sound proofing / compensation for loss of business / Request for shortened construction hours and completion timing within 2years / noise and engineering risk to adjoining properties;**

**Planning comment:** Standard conditions imposed on any consent granted would ensure development works occur in a safe manner in accordance with regulations standards. Construction hours are industry set hours and construction period of timing is not within Council's regulating framework to control, other than the validity of the consent being 5 years to substantially commence works from the date of consent. Accordingly, the Bondi Junction

core controls have recently been upgraded resulting in increased development within this area now and into the future.

**Issue:** *Expensive cost of living in this highly dense area;*

**Planning comment:** This is a general comment and not solely related to this specific development, but rather can be applied to the surrounding locality.

**Issue:** *Property devaluation*

**Planning comment:** This is not a planning consideration.

**Issue:** *Increased Overshadowing / Solar access – insufficient sunlight to DCP (ie <3hrs direct sunlight), loss of daylight and natural ventilation / Request elevational shadow diagrams / diagrams do not indicate authors building / shadow over pool / overshadowing particularly to lower level units adjacent;*

**Planning comment:** These aspects have been previously discussed in detail within the report.

**Issue:** *Excessive bulk, height and scale – non compliant height, previous DA sought reduction in height despite height control, non compliance with maximum 16storey control / roof feature not integrated into design, adds additional unnecessary bulk / Lack of transition in scale between neighbouring properties / Consideration should be given to a development akin to previous approval building envelope / Unsympathetic to scale of adjoining buildings / inadequate floor to ceiling heights / Significant intensification from existing / Overdevelopment of the site / Intention of increased density control is to increase office spaces not residential uses / ‘Winter gardens’ should be considered in GFA and therefore calculated into FSR (ie not terraces or balconies) / Insufficient side and front setbacks / insufficient apartment mix with overload of 1 bedroom & studio units / If approved, set an undesirable precedent for similar material environmental impacts / Council policy results in buildings disproportionate to neighbouring properties / need to demonstrate proposal is not an overdevelopment even if it complies with key planning controls;*

**Planning comment:** These aspects have been previously discussed in detail within the report.

**Issue:** *Communal open space location – poor amenity, lack of direct solar access & subject to winds along Pine Lane;*

**Planning comment:** These aspects have been previously discussed in detail within the report, where amended plans have relocated the communal open space to the front of the building.

**Issue:** *Loss of views and vistas particularly for north and north east facing apartments, front setback should maintain building alignment to maintain views / Loss of iconic views – Sydney Harbour, Harbour Bridge, Opera House and CBD skyline; / Loss of views (Bellevue Hill & Bondi) – continual loss of panoramic views over time;*

**Planning comment:** These aspects have been previously discussed in detail within the report.

***Issue: Loss of privacy / overlooking / Front balconies will look directly into author's consulting room – loss of visual and acoustic privacy / balconies between the two buildings will be too close (1.5m);***

***Planning comment:*** These aspects have been previously discussed in detail within the report.

***Issue: Request Surveyor Certificate of the accurateness of photomontages;***

***Planning comment:*** The site survey has been prepared by a qualified surveyor and relied upon for the photomontages. As such, photomontages are indicative only and should not be relied upon.

***Issue: Request Dilapidation Report & Photographic Survey prior to and after construction;***

***Planning comment:*** A condition of consent if approved will be imposed requiring dilapidation reports of adjoining properties.

***Issue: Request Geotechnical report / Request for wind study report, heritage assessment & traffic impact statement;***

***Planning comment:*** Each of these reports have been submitted with the application and their recommendations would be incorporated into conditions of consent if approved.

***Issue: Excavation impact / structural stability;***

***Planning comment:*** If approved, standard conditions shall be imposed that ensure works are carried out in a safe manner in accordance with relevant regulations and legislation as well as reliance on the various technical experts.

***Issue: Questions if street trees can survive with significant works occurring adjacent / Inappropriate vegetation removal on Oxford St;***

***Planning comment:*** The application has been referred to Council's Strategic Tree Planning Officer in this regard, with conditions recommended should the application be supported, to ensure the protection and retention of the street trees.

***Issue: Safety issue of removing Asbestos from site;***

***Planning comment:*** A condition of consent if approved will be imposed requiring compliance with Work Cover regulations.

***Issue: Heritage significance of dwelling at rear of subject site;***

***Planning comment:*** The subject site is not listed as an item of heritage significance.

***Issue: Increased waste due to number of proposed residents;***

***Planning comment:*** The application has been referred to Council's Environmental Waste Officer in this regard, with conditions recommended should the application be supported, to ensure sufficient waste areas are provided within the development.

**Issue:** *Pedestrian Wind Environment Statement submitted advises no wind tunnel testing or modelling undertaken & recommendations are 'in principle' only, need to actually carry out specific modelling & testing;*

**Planning comment:** This aspect has been previously discussed in detail within the report.

**Issue:** *Plant / services should be located in basement (not roof)*

**Planning comment:** Plant and services are sought both in the basement, as well as on the roof, required for a development of this size.

**Issue:** *Unclear of entry/exit for bicycles;*

**Planning comment:** A through site link between Oxford Street and Pine Lane will provide access for entry/exit of bicycles into the development.

**Issue:** *Inadequate footpath for pedestrians in Pine Lane;*

**Planning comment:** The proposal includes a land dedication of 3m to the rear of the site for improved pedestrian access at the rear in Pine Lane.

#### **Section 79C(1)(e) - The public interest.**

Upon conditions being imposed, the application is in the public interest.

## **5. CONCLUSION**

In the lead-up to the gazettal of the current planning controls for the site, a 14 storey commercial building (see DA 334/2009) was proposed and approved at 13 storeys on this site in 2010. The applicant initially attempted to use the envelope of the commercial building as the basis for a residential development.

Since the approval of the commercial building the site's planning controls have been gazetted providing for an increase in height and floor space controls (ie height went from 55 m to 60 m and the floor space ratio went from 3:1 to 6:1 and included a more generous definitional change in how floor space was measured). The initial scheme was considered to have a number of planning and design flaws, in as much as the tower was considered bulky and the design generally poorly resolved.

This scheme was abandoned and a new architect appointed. Changes included the tower form being moved to partially abut the blank wall of the neighbouring building to the west (257 Oxford Street), a through site link proposed and revised floor plans and curvature provided to the east – north elevation of the tower. Whilst some of these changes were supported, this scheme was still viewed unfavourably due, in part, to the tower form remaining overly bulky and imposing and various non-compliances with LEP and DCP controls.

Whilst it is acknowledged that this perception of tower bulk is based partly on the site constraints (a relatively narrow but long site) as well as the location of the tower (abutting the adjoining tower); there is no doubt that a narrower tower could be achieved but the applicant has steadfastly refused to entertain this as being appropriate. There is no doubt that a narrower tower would mitigate various external impacts such as visual bulk, overshadowing,

and view loss, as well as internal amenity issues to the units themselves by potentially providing greater access to light and aspect.

Arguably a better building could be conceived but ‘requiring’ this in the face of a ‘technically compliant’ building is challenging. As can be seen by the significant and detailed history of discussion with the applicant, many attempts have been made to suggest greater changes but only relatively minor modification has occurred and it would seem that yield has played a greater role than design excellence. The applicant has consistently pointed out that the development “complies”.

This quest for compliance over design excellence has resulted in a number of negative changes. Wintergardens were originally proposed to balconies of the building and this element (properly done) has the potential to provide both greater amenity for the units as well as a visually attractive façade. Regrettably, when faced with the advice of non-compliant FSR (and the suggestion to reduce the bulk of the tower as the means to overcome this), the applicant instead chose to delete these elements. This saw a technical reduction in calculable floor area due to the space becoming balcony area. Technical compliance achieved but poor amenity results.

This process was again followed where a large void area in the south elevation of the tower was inserted (deleting several units) – again with the aim of achieving ‘technical compliance’ with the FSR control. This void space was turned into a communal garden area for future residents - but received no sun. After this was pointed out to the applicant and the SEPP 65 Panel also criticised it, this feature was also deleted.

Much of the time spent processing this application has involved attempts by the applicant to achieve the highest possible residential floor space potential of the site and the current design is a reflection of this approach. Every reasonable effort has been made to encourage a building of high design quality that will provide a positive contribution to the commercial viability of Bondi Junction and whilst this building may not meet this objective, it’s technical compliance with both height and FSR controls means that an outright refusal is not warranted and other areas of concern can reasonably be addressed through deferred commencement conditions.

## 6. RECOMMENDATION

That the Joint Regional Planning Panel grant development consent for development application No. 386/2012 at 253-255 Oxford Street, Bondi Junction for demolition of existing buildings and construction of a 19 storey mixed use development containing 94 residential units, 6 retail premises and 3 levels of basement parking subject to the following conditions:

### SCHEDULE A:

#### Deferred commencement consent:

That the Council grant deferred commencement consent in accordance with the provision of section 80(3) of the Environmental Planning and Assessment Act 1979.

The consent is not to operate until the applicant has satisfied Council as to the following matters:

#### 1. Potential contamination and satisfaction of 'SEPP 55 – Remediation of land' requirements

A Detailed Environmental Site Assessment (DESA Stage 2) is to be provided and if required a Remediation Action Plan (RAP) is to be submitted to Council prepared in accordance with the NSW EPA 'Guidelines for Consultants reporting on Contaminated Sites' and Planning NSW Guidelines 'Managing Land Contamination Planning Guidelines'.

If required the RAP shall be reviewed by a NSW EPA accredited Site Auditor and a statement issued by that auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use.

#### 2. Architectural resolution, materials and finishes

Improved architectural resolution, character and design resolution is required. In this regard, an overall strategy in the design of the form and facades shall be provided that includes:

- a) Large scale part elevations/part sections will need to be provided, detailing the intended façade design, providing indicative construction details and representing proposed materials and colours. In this regard, 1:50 scale sections and elevations of the podium and tower facades are required.
- b) A schedule of external finishes shall be provided. Such schedule shall include details of proposed external walls and roofing materials in the form of either trade brochures or building samples. Where specified, the schedule shall also include window fenestration and window frame colour details, as well as fencing, paving and balustrading details and guttering colour and profile.
- c) There is a need for a durable and 'raw' material in the external façade that is not dependant on too-frequent maintenance / painted finishes.
- d) Further architectural resolution of the design of the façade is required, with particular attention to addressing concerns for large amounts of fixed unshaded glass, the painted surfaces, reliance on awning windows, the lack of articulation and sunshading on the west, the glass balustrades, the heavy frame defining the extent of the privacy screens on the east façade. Clarification of elements and materials in the typical bays on the east façade is required.
- e) The Oxford St podium should be of a higher quality architectural finish with high quality detailing. Paint finish should be avoided. Instead, high quality, durable materials with low maintenance are preferred.



- f) Detailed drawings of the awning to Oxford Street is required, ensuring it is finished in a high quality material.
- g) Window operation needs to be clearly marked on the elevations.
- h) All signage locations and external colours should be clarified.
- i) The external shading / privacy blades are supported in principle, however the use seems to be ad hoc, and their material and fixing undefined.
- j) Resolution of the glazed elements (window mullions, balustrades) is required as currently, they do not appear to have a logic or consistency, which would result in a fragmented façade rather than a coordinated one.

### **3. Communal open space**

A double height space (ie two storey void) shall be created for the entire communal open space area located on level 2 to improve the amenity, viability and functionality of this area. In this regard, unit 3.02 shall be deleted and the floor space redistributed to elsewhere within the building (see matter 4 below) to ensure compliance with the floor space control of 6:1 is maintained.

### **4. Active retail frontage**

The entry to the through site link from Oxford Street (ground floor level) shall be amended to provide an improved active retail frontage. The curved glazing shall be revised so the retail frontage predominantly aligns with the street (ie square off the retail frontages to Oxford Street). In this regard, the deletion of unit 3.02 allows for a redistribution of gross floor area within the building, to ensure compliance with the floor space control of 6:1 is maintained.

### **5. Land dedication**

A 3 metre wide strip of land extending along the entire rear of the site (Pine Lane frontage) shall be dedicated to Council for road widening, with all costs associated being borne by the applicant.

The land dedication shall extend over all levels (ie to the centre of the earth). In this regard, the basement levels shall be amended to be setback 3metres from the rear boundary of the site.

### **6. Detailed Public Domain Plan**

A detailed public domain plan shall be submitted indicating all works sought to the public domain area in accordance with Council's 'Bondi Junction Public Domain Technical Manual'. Details should include (though not limited to) furniture, pavement, garbage bins, lighting, bicycle parking etc.

### **7. Privacy measures and details**

Specific details for privacy measures are to be provided that indicate the overall strategy to mitigate privacy. Such details should include the finishes, materials and detail of privacy measures for the entire building. Additional measures should also extend (but not be limited) to:

- a. The planter boxes located on the terraces along the perimeter of the building on level 2 shall be widened to have a minimum (soil) width of 400mm;
- b. Privacy louvre screens along the western elevation shall be fixed in place (include the angle of the louvre blades);
- c. Privacy louvers screens on the level 13 balcony of unit 13.01 (accessed from bedroom) shall be rotated to be in the opposite direction to match the louvre angle of the front balcony (accessed from living/dining) and fixed in place to reduce the scope for overlooking of the adjacent balconies at 251 Oxford St.

## **8. Wind attenuation**

A further Wind Assessment Report shall be carried out by a suitably qualified expert ensuring compliance with the DCP with regard to wind impacts from the proposed development. Additional matters for consideration and additional detailing include (though not limited to):

- a. Wind attenuation measures shall be installed within the through site link, particularly at the Pine Lane entry to avoid wind funnelling.
- b. Ensure that items such as furniture are not capable of flying off balconies.
- c. Ensure that the wind impacts, to be experienced particularly at the higher levels of the building are of an acceptable level, particularly as the design has removed winter gardens in lieu of balconies.
- d. Conduct actual testing rather than assumptions in the preparation of such assessment.

## **9. Provision of public art**

Confirmation of the provision of public art to the development is required to a value of 0.5 – 1% of the estimated cost of development. In this regard, it is recommended the applicant refer to Council's 'Public Art in the Private Domain' manual and Public Art Committee.

## **SCHEDULE B:**

Upon satisfying Council as to the above matters, the following conditions apply:

### **A. APPROVED DEVELOPMENT**

#### **1. APPROVED DEVELOPMENT**

The development must be in accordance with:

##### **(a) Architectural Plan Nos:**

DA-000 (Rev 4 dated 18.04.13);  
DA-001 (Rev 6 dated 18.04.13);  
DA-101 (Rev 3 dated 18.04.13);  
DA-102 to DA-103 (Rev 1 dated 19.12.12);  
DA-201 to DA-203 (Rev 3 dated 15.04.13);  
DA-204 (Rev 4 dated 17.04.13);  
DA-205 to DA-206 (Rev 2 dated 05.03.13);  
DA-207 (Rev 4 dated 18.04.13);  
DA-211 to DA-215 (Rev 3 dated 10.04.13);  
DA-300 to DA-302 (Rev 4 dated 18.04.13);  
DA-303 (Rev 3 dated 18.04.13);  
DA-400 to DA-402 (Rev 4 dated 18.04.13);  
DA-403 (Rev 3 dated 18.04.13);  
DA-700 (Rev 3 dated 18.04.13);  
DA-701 to DA-703 (Rev 1 dated 19.12.12);  
DA-730 (Rev 3 dated 17.04.13);  
DA-750 (Rev 3 dated 18.04.13);  
DA-751 (Rev 2 dated 18.04.13);  
DA-910 to DA-911 (Rev 4 dated 18.04.13);  
DA-912 to DA-914 (Rev 3 dated 18.04.13);  
DA-916 (Rev 2 dated 14.03.13);

Of Project No. 12-133, prepared by 'Dickson Rothschild' Architect and received to Council on 19 April 2013.

- (b) Landscape Plan No. 101 and 102, 501 (Issue E) of Job No. SS12-2494.1 and documentation prepared by 'Site Image Landscape Architects', dated 18.04.2013, and received by Council on 19 April 2013;
- (c) Traffic Impact Assessment prepared by 'Transport and Traffic Planning Associates' dated December 2012 (Rev C), Reference 12171 and received to Council on 21 December 2012;
- (d) Stormwater Plan and Details, Drawing Nos SW-00 to SW-08 (Rev A) prepared by 'Harris Page & Associates' dated 19.12.12 and received to Council on date 21 December 2012;
- (e) Preliminary Environmental Site Assessment, Ref: E26227Krpt dated December 2012 and received to Council on date 21 December 2012, and Supplementary documentation submitted to Council on 26 February 2013 and 28 March 2013;
- (f) Noise Impact Assessment, Project No 20121184.1 prepared by 'Acoustic Logic' dated 13/12/2012 and received to Council on date 21 December 2012;
- (g) BASIX Certificate No. 460439M dated 21 December 2012, and received by Council on 21 December 2012;
- (h) BCA Assessment Report, Ref: 2012/0649 R2.0 prepared by 'Steve Watson & Partners' dated December 2012 and received by Council on date 21 December 2012;
- (i) Arboricultural Impact Assessment Report, Project No: 253-255/OX/12 prepared by 'Tree iQ' dated 1 August 2012 and received to Council on 21 December 2012;
- (j) Pedestrian Wind Environment Statement, Ref: WA529-03F02(REV1)-WS REPORT prepared by 'Windtech' dated 18 December 2012 and received to Council on 21 December 2012;
- (k) Solar Light Reflectivity Analysis, Ref: WA529-03F03(REV1)-SR REPORT prepared by 'Windtech' dated 18 December 2012 and received to Council on 21 December 2012;
- (l) Construction Environmental Management Plan prepared by 'Legacy Property', undated and received to Council on date 21 December 2012;
- (m) Schedule of external finishes and colours received by Council on 19 April 2013; and
- (n) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part G1, Waverley DCP 2010 and Waste Management Plan prepared by 'Elephants Foot' dated November 2012 and received to Council on 21 December 2012.

Except where amended by the following conditions of consent.

## **2. CONSULTANT REPORTS**

The recommendations contained in the various specialist consultant reports outlined in Condition 1 shall be adhered to. Where any conflict arises between a condition of consent, the development's Principle Certifying Authority may determine which is to apply

## **3. SITE CONTAMINATION**

Prior to the issue of a Construction Certificate, an EPA Accredited Site Auditor (a list of auditors can be found on the NSW EPA website) shall certify that the site is suitable or will be suitable, after remediation for the proposed use.

## **4. ROAD WIDENING**

Prior to occupation, the 3m wide strip of land along the Pine Lane frontage required by Council for road widening be dedicated to Council for that purpose with all costs associated being borne by the applicant.

## **5. WORK TO OXFORD STREET**

A design review and construction of the roadway alignment on the southern side of Oxford Street being carried out to the satisfaction of the Divisional Manager, Technical Services providing for an extension of the existing indented bay in a westerly direction to the Hollywood Avenue intersection. The design review and realignment works shall be carried out at the applicant's expense and be completed to Council's satisfaction prior to consideration being given by Council to the provision of a Works/Construction Zone on Oxford Street outside the site.

## **6. WORKS ON PINE LANE**

New kerb and gutter, footpath realignment and pavement widening works shall be undertaken in Pine Lane prior to the issue of an Occupation Certificate. Detailed engineering drawings of the works shall be prepared at the applicant's expense by a suitably qualified and experienced professional and be submitted to Council for the approval of the Divisional Manager Technical, Services prior to those works commencing. The new kerb and gutter and footpath shall be designed and constructed to align and match satisfactorily with that in place in the lane at the rear at 251 and 257 Oxford Street.

## **7. BOUNDARY LEVELS**

The finished level of paving inside the site on the Oxford Street boundary is to match Council's existing footpath.

## **8. TERMS OF RESTRICTIONS, COVENANTS AND EASEMENT**

All covenants, restrictions and easements required to be registered by these conditions of consent must provide that they cannot be varied, modified or removed without the consent of the Council.

## **9. STORAGE FACILITIES**

Accessible storage facilities (in addition to kitchen cupboards and bedroom wardrobes) for all residential units shall be provided at a rate of:

- i. Studio apartments: 6m<sup>3</sup>
- ii. One bedroom apartments: 6m<sup>3</sup>
- iii. Two bedroom apartments: 8 m<sup>3</sup>
- iv. Three plus bedroom apartments: 10 m<sup>3</sup>

The amendments shall be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

## **10. GENERAL MODIFICATIONS**

The proposal shall be amended as follows:

- (a) The BASIX Certificate shall be amended to reflect the approved scheme.

The amendments shall be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

## **11. GENERAL MODIFICATIONS – PARKING**

The proposal shall be amended as follows:

- (a) Car parking shall be provided at a maximum rate of:

- i. 11 residential visitor spaces;
- ii. 7 retail spaces;
- iii. 1 car share space
- iv. 63 residential spaces;
- v. Maximum of 82 spaces overall.

- (b) A minimum of 10% of all vehicle spaces are to be accessible.

- (c) Ownership of car park lot spaces within the basement shall be limited to parties owning a unit (commercial/residential) within the building and limited to 2 car spaces to any one unit.

The amendments shall be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

## **12. GENERAL MODIFICATIONS – DISABLED ACCESS**

The proposal shall be amended as follows:

- (a) At least 4 of the accessible units are to be located towards the front of the building.
- (b) The adaptable units should not be clustered together but rather spread throughout the development and should include both one and two bedroom units.
- (c) A fully accessible sanitary facility is to be provided for public use on ground level.

The amendments shall be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

### **13. GENERAL MODIFICATIONS – THROUGH SITE LINK**

The proposal shall be amended as follows:

- (a) Details shall be provided for the proposed security measures to the arcade which are to be designed to complement the architectural character of the building and have a high design quality.

The amendments shall be submitted for the approval of the Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

### **14. THROUGH-SITE LINK – OXFORD STREET TO PINE LANE**

The following requirements apply to the through-site link:-

- (a) The purpose of the link shall be public pedestrian access through the site during day light hours. The link shall be accessible to the public at least between the hours of 6.00am to 8.00pm, Monday to Saturday and between 7.00am to 5.00pm Sundays and at all times the retail premises are permitted to operate.
- (b) Signage identifying the purpose of the link and its trafficable hours to the public shall be provided to both its Oxford Street and Pine Lane entries.
- (c) Any future strata plan for the site shall be modified to identify a right of carriageway in respect to (a) prior to the issue of an Occupation Certificate or Subdivision Certificate for the development.
- (d) The link is to be maintained in a clean and safe condition by the Body Corporate of the building at all times.
- (e) The link shall be designed so as to allow for fire egress from the building in accordance with the provision of the Building Code of Australia.
- (f) Closure of the link to the public, other than allowed for by (a), requires Council's consent.
- (g) Dedicated areas for outdoor seating or the like within the through site link shall not be indicated on any future subdivision plan. Any proposal to utilise the through site link for outdoor seating shall be subject to development applications being submitted individually for the various commercial/retail tenancies.
- (h) Closed Circuit Television (CCTV) in link shall be provided to the public areas of the through site link to assist with Crime Prevention.
- (i) Adequate lighting shall be provided to the public areas of the through site link, and the exit to Pine Lane to assist with Crime Prevention.

### **15. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT**

The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building, without the approval of Council.

**16. ARCHITECT TO SUPERVISE DESIGN**

The preparation of the Construction Certificate plans shall be supervised and to the satisfaction of 'DR Design Pty Ltd' – Mr. Robert Nigel Dickson (the 'architect' Registration Number: 5364) in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

**17. BONDI JUNCTION 3D CAD MODEL REQUIRED**

Prior to a Construction Certificate being issued, an accurate 1:1 electronic model of the detailed construction stage drawings must be submitted to Council for the electronic Bondi Junction Model.

The data required to be submitted must include and identify:

- (i) building design above and below ground in accordance with the development consent;
- (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
- (iii) property boundaries and the kerb lines adjacent to the site.

Further information and technical requirements should be obtained from Council's E-Planning (3D Modelling) Officer, in the Planning and Environmental Services Department.

Prior to an Occupation Certificate being issued, a second and updated 'as built' 1:1 electronic model, in accordance with the above requirements, of the completed development must be submitted to Council for the electronic Bondi Junction Model.

Note: The submitted model/data must be amended to reflect any modifications to the approval (under section 96 of the Environmental Planning and Assessment Act) that affect the location of any of the underground services or structures and/or external configuration of building above ground.

**18. ROLLER SHUTTERS**

The installation of roller shutters or grilles, in front of, or in place of a standard window or shop front is prohibited. Council Policy requires the retention of a glass shop front for window display purposes.

**19. DELIVERY OF GOODS**

Loading and unloading of vehicles and delivery of goods to the land shall at all times be carried out within the site. The area set aside for car parking as shown on the approved plans shall be used for the parking of vehicles and for no other purpose.

**20. NO APPROVAL FOR ON-STREET PARKING CHANGES**

Any proposed changes to on-street parking is to be the subject of a formal request to the Waverley Traffic Committee.

**21. NOISE - PLANT**

Any sound producing plant and equipment shall be capable of being operated in accordance with the requirements of the Protection of the Environment Operations Act, 1997 and the provisions of Australian Standards 1055-1984.

## **22. NOISE EMISSIONS**

The use of the premises shall not give rise to:

- (a) Transmission of unacceptable vibration to any place of different occupancy.
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source noise level shall be assessed as an LA10, 15min and adjusted in accordance with the Department of Environment and Climate Change's (DECC) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content.
- (c) A sound pressure level at any affected premises that exceeds the DECC recommended planning levels outlined in the DECC Environmental Noise Control Manual; or
- (d) A sound pressure level at any affected premises that exceeds the DECC recommended maximum noise level as modified to account for the existing level of stationary noise at the receiver premises.

## **23. AIR EMISSIONS**

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997. Waste gases released from the premises must not cause a public nuisance nor be hazardous or harmful to human health or the environment.

## **24. REFRIGERATION UNITS & MECHANICAL PLANT**

Any future refrigeration motors/units or other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any future refrigeration motors/units or other mechanical plant associated with any future use of the building. Details of the refrigeration units and mechanical plant along with the means of acoustically treating the plant room are to be provided with any development application for the use of the premises.

## **25. INSTALLATION OF AIR CONDITIONING**

Any air conditioning unit(s) installed within the building shall:

- (a) Be located a minimum of 1.5 metres from a boundary.
- (b) Be located behind the front building line and if visible suitably screened and located in an appropriate location.
- (c) Not be adjacent to neighbouring bedroom windows.
- (d) Not reduce the structural integrity of the building.
- (e) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
  - (i) before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday; or
  - (ii) before 7.00am and after 10.00pm on any other day.



- (f) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (e).

**26. MAINTENANCE OF WATER TREATMENT DEVICES**

All waste water and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act, 1997.

**27. SEPARATE APPLICATIONS FOR NON-RESIDENTIAL USES**

Specific development applications are to be lodged for the approval of Council in connection with the initial usage of any retail or commercial areas within the development, prior to the occupation of the premises.

In this regard, compliance with the BCA in respect to the provision of sanitary facilities shall be provided for each retail tenancy.

**28. SEPARATE APPLICATIONS FOR FOOD PREMISES**

As above, all tenancies are to be the subject of a separate Development Application, and where food premises and commercial kitchens are involved, the following conditions will also apply:

- (a) The premises must comply with the Food Act, 2003 and the Food Standards Code there under;
- (b) The applicant must arrange for an inspection by Council's Environmental Health Surveyor prior to Occupation;
- (c) The premises are to be registered with Council prior to the issue of the Occupation Certificate; and
- (d) Any proposal to utilise cooking equipment/appliances will be subject to a separate development application to Council and if approved will require an air handling system designed in accordance with AS 1668.1-1998 and AS 1668.2-1991 or alternative solution satisfying the performance objectives of the Building Code of Australia.

**29. SEPARATE APPLICATION FOR OUTDOOR SEATING**

Any proposal to utilise an area external of the building for dining on public property will be subject to a separate development application to Council and if approved will require a lease agreement to be entered into with Council.

**30. SEPARATE APPLICATION FOR STRATA SUBDIVISION**

The strata subdivision of the development will require a separate development application to Council.

**31. BUILDING TO BE WRAPPED**

The applicant is encouraged to investigate possibilities of extracting an image of the completed building onto the hoarding and mesh surrounding the site during the demolition and construction stages of the development to minimise the visual intrusion of what is otherwise a large single coloured mesh 'block' during this time.

Any advertising on the hoarding requires Council's written approval.

**32. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS**

Telecommunication facilities on new multi-unit dwellings are opposed. The Owners' Corporation is prohibited from entering into leasing agreements with telecommunication companies to erect or install any commercial telecommunication device (other than for the explicit use of the occupants) on the building.

**33. EXCAVATION TO BE LIMITED**

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 96 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

**34. WASTE MANAGEMENT**

- (a) For residential waste, the applicant must provide 6 x 600L Mobile Garbage Bins (MGB's) for waste and 17 x 240L MGB of comingled recycling to be collected weekly.
- (b) The applicant must provide garbage / recycling compaction via the Elephants Foot system as proposed in their Waste Management Plan.
- (c) For commercial waste, the applicant must provide 2 x 600L MGB for waste and 2 x 240L MGB of comingled recycling to be collected weekly.
- (d) The residential and commercial waste storage areas must be separated.
- (e) The applicant must enter into a commercial waste collection contract for the collection of commercial waste.
- (f) The waste and recycling storage areas must be banded to the sewer and be equipped with a supply of hot and cold water mixed through a centralised mixing valve with a hose cock.
- (g) The waste and recycling storage areas must be able to accommodate all bins, with all bins simultaneously accessible.

## **B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **35. SECTION 94A CONTRIBUTION**

A cash contribution is payable to Waverley Council pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979* and the ' *Waverley Council Development Contributions Plan 2006*' in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
  - (i) Where the total development cost is less than \$500,000:  
**"Waverley Council Cost Summary Report"**; or,
  - (ii) Where the total development cost is \$500,000 or more:  
**"Waverley Council Registered Quantity Surveyor's Detailed Cost Report"**.
- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

Waverley Council Development Contributions Plan 2006 may be inspected at Waverley Council Customer Service Centre, 55 Spring Street, Bondi Junction.

#### Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

### **36. SECURITY DEPOSIT**

A deposit or guarantee satisfactory to Council for the amount of \$70,000 must be provided as security for the payment of the cost of making good any damage that may be caused to any Council property as a consequence of this building work.

This deposit or guarantee must be established prior to the issue of the Construction Certificate. The full amount of the difference after recovery of Council's cost for any repair of damage to Council property will be refunded after satisfactory completion of the building work to the person who paid the deposit.

### **37. LONG SERVICE LEVY**

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

### **38. AMENDED LANDSCAPE PLAN**

The Landscape Plan is to be amended by the following changes:

- (a) Soil depth level for the communal open space and roof garden planting areas shall be no less than 60 cm in depth (excluding depth required for plumbing and drainage) with the first horizon being no less than 30cm in depth. Species selection should be amended to provide a greater representation of local/native species used on the site.
- (b) The planting location of individual species shall be indicated on the plan, ensuring sufficient planting space is provided for each.
- (c) There is insufficient space to plant the clump of Cupaniopsis on the second level. Planting centres are very close and there is no indication of the depth of soil they are to be provided with. In this location, with the surrounding building, and competition due to the close planting the selected species are likely to 'stretch' and become poor specimens. A reduction in numbers or change in species is recommended.
- (d) Consideration should be given to extending the planting area/tree pit to under the area of decking to allow for more root volume to be achieved. More details regarding this would be required.
- (e) There is to be a minimum representation of 50% native species used across the site (represented in each category of trees, shrubs, ground covers)
- (f) Planting volumes need to be sufficient to support the proposed species. For any trees to be planted, details of root volume provided and details of tree pits is required.
- (g) Tree pits are to be extended to include the void under the decking area.

The amended landscape plan is to be submitted to Council for approval by the Parks and Open Spaces Division of Council prior to the issue of a Construction Certificate.

### **39. STREET PLANTINGS**

All work outside the property boundary are to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense. Such works shall comply with the following:

- (a) A replacement tree is to be planted on the eastern boundary of the site in the footpath adjacent to the rear of the kerb. The tree is to be a *Magnolia grandiflora* and is to be a minimum pot size of 400 litres. The tree is to be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip.
- (b) A consulting arborist is to submit specifications and design for a tree pit for the replacement street tree with the construction certificate for approval by Council's Strategic Tree Planning Officer. The design is to include measures to minimise tree root conflict with any adjacent services/infrastructure and the installation of a tree guard (Derwent - available from Arborgreen) installed to manufacturer's specifications.
- (c) The consulting arborist is to provide details for cut-outs for the awning at the front of the building to allow for existing and future tree growth for both Tree 1 and Tree 2. This awning modification is to be shown on all submitted plans.
- (d) The consulting arborist to be engaged at the commencement of demolition works to prune tree roots at the line of the existing building on its northern boundary.
- (e) A supervising arborist (minimum Australian Qualification Framework Level 5) is to be engaged prior to any demolition or works on site and must

- i) identify key stages where monitoring and certification will be required as outlined in AS 4970/2009, Section 5 in the form of a schedule to be submitted to and approved by Council.
- ii) be present during any works within the tree protection zone of trees marked for retention and;
- iii) oversee any approved excavation within tree protection zones is hand dug to ensure no roots greater than 50mm are severed and to clean cut any smaller roots
- iv) undertake regular site supervision and certify compliance/submit reports to Council and the Principal Certifying Authority at the following phases of work:
  - A. Installation of tree protection measures prior to the issue of a construction certificate
  - B. Site establishment works including: bulk earthworks; installation of temporary infrastructure including bunding; sediment/drainage works and demolition of (insert specific details of structures to be demolished within close proximity to TPZs)
  - C. During excavation and construction stages for: the installation of services, footings and slabs; works within TPZs and at completion of building works
  - D. During any landscape works within TPZs
  - E. At practical completion

Details are to be submitted to Council for approval by the Parks and Open Spaces Division of Council prior to the issue of a Construction Certificate.

#### **40. LANDSCAPING BOND**

A bond of \$10,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the tree/s. The bond is to be lodged prior to the issue of a Construction Certificate. An application for refund of this bond may be made to Council (12) months from the issue of the Final Occupation Certificate. In the event that any of the specified trees are found damaged, dying or dead at any time during the construction and bond period, the bond may be forfeited to Council. Any replacement of dead or defective trees shall re-start the (12) month maintenance from the date of replacement.

#### **41. LANDSCAPED SLABS**

Details shall be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is proposed.

#### **42. DILAPIDATION REPORT**

Dilapidation surveys must be conducted and dilapidation reports prepared by a practising professional engineer (structural) of all buildings, (both internal and external), including ancillary structures located on land adjoining the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration. The survey must identify which properties are within the likely 'zone of influence'.

These properties must include (but are not limited to) 251 Oxford Street, 257 Oxford Street and 1 Waverley Crescent, and any others identified to be in the zone of influence in the Dilapidation Survey.

The dilapidation reports must be completed and submitted to Council and the Principal Certifying Authority with or prior to the Notice of Commencement and prior to the

commencement of any development work. The adjoining building owner(s) must be given a copy of the dilapidation report for their building(s) prior to the commencement of any work.

Please note the following:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

#### **43. PUBLIC ART**

Public Art shall be incorporated into the new development. Specific details and design of the proposed public art feature shall comply with 'Public Art in the Private Domain Guidelines' which can be viewed on Council's website and by liaising with Council's Cultural Development Officer.

Details to be provided to the satisfaction of Waverley Council prior to the issue of a Construction Certificate for the development.

#### **44. ACOUSTIC REPORT RECOMMENDATIONS**

The "recommendations" as outlined in Sections 4.3 & 5 of the acoustic report prepared by Acoustic Logic Document Reference: 20121184.1/1312A/RO/BW dated 13 December 2012 shall be implemented as follows:

A Certificate of Compliance prepared by a suitably qualified acoustic consultant is to be submitted to Council certifying that the recommendations made in the above report have been satisfied and Council's noise criteria has been met prior to the issue of an Occupation Certificate.

#### **45. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS**

Noise attenuation is to be achieved in all residential units within the building by a minimum of the following standards:

- (a) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a stairway, public corridor, hallway or the like;

- (b) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have a FSTC of not less than 55;
- (c) A wall or floor shall have a FSTC of not less than 55 if it separates a sole occupancy unit from a plant room;
- (d) A floor separating sole occupancy units must not have a FSTC of less than 50; and
- (e) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an Impact Isolation Class of not less than 55.

Details are to be provided on the plans to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

#### **46. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES**

Adequate provision shall be made for the installation of a mechanical exhaust system for future premises where food is prepared. This includes the provision of a shaft that complies with the Building Code of Australia, to the roof for the ductwork and the flue of the system.

#### **47. NO BUILDING WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE**

The building work, including demolition, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days Notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

#### **48. ESSENTIAL SERVICES - NEW BUILDING**

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) basis of design;
- (b) standard to which the system is to be installed; and
- (c) all relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

- (a) inspection, testing and commissioning details;

- (b) date of inspection, testing and commissioning;
- (c) the name and address of the individual who carried out the test; and
- (d) a statement that the service has been designed, installed and is capable of operating to the above standard.

#### **49. HOARDING REQUIRED**

A standard B-Class hoarding designed and constructed in accordance with the requirements of the Work Cover Authority being erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

#### **50. GEOTECHNICAL ENGINEERS REPORT**

A geotechnical report, regarding the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works, is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises. The report is to be submitted prior to the issue of a Construction Certificate and commencement of any such works on the site.

Should ground anchors be required for construction, a separate application shall be submitted to Council in the form of a development application.

#### **51. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION**

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works. The Report shall be submitted to the Principal Certifying Authority, Council and the owners of adjoining properties prior to the issue of a Construction Certificate.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

#### **52. BOUNDARY WINDOWS**

All windows adjacent to the western boundary (ie within 3 m) must be sealed, bricked up or otherwise enclosed, prior to the construction of any building immediately abutting, adjoining or adjacent to such windows. The owner and future owner(s) are to acknowledge that these windows are approved on the basis that the future development of adjoining sites may fully or partially obscure these windows. A covenant to the approval of Council is to be placed on the title of the property to this effect and acknowledging the basis of approval of these windows. Evidence of the creation of the covenant is to be submitted prior to issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.



### **53. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION**

A site specific noise management plan must be submitted to the Council for approval and comment prior to the issue of a construction certificate and complied with during any building works. The plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants. The plan must include but not be limited to the following:-

- (a) Confirmation of the level of community consultation that has, is and will be undertaken with Building Managers/occupiers/residents of noise sensitive properties likely to be affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (b) Confirmation of noise methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with Council's noise criteria.
- (c) What course of action will be undertaken following receipt of a complaint concerning site noise emissions?
- (d) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring property to a minimum.
- (e) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

### **54. SITE WASTE AND RECYCLING MANAGEMENT PLAN**

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with Part G1, Waverley DCP 2010 prior to the issue of the Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

The builder and all subcontractors shall comply with the approved SWRMP Part 1 and 2 at all times during construction. At least one copy of the SWRMP is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

### **55. EROSION, SEDIMENT AND POLLUTION CONTROL**

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

## **56. STORMWATER MANAGEMENT**

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2010 - Part G4 prior to the issue of a Construction Certificate.

## **57. ENGINEERING DETAILS**

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

## **58. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT**

A "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) is to be approved by Council prior to the issue of a Construction Certificate and the undertaking of any demolition, excavation, remediation or construction on the site.

The CVPPM shall provide details of the following:

- (a) The proposed route to be taken by demolition/construction vehicles in the Waverley Council area when accessing and exiting the site.
- (b) The type and size of demolition/construction vehicles. Trucks with dog trailers and semi trailers may not be approved for use if it is considered with the information submitted that such vehicles cannot adequately and safely gain access to and from the site or where access into or out of the site may not be not possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- (c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- (d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- (e) The location and materials of construction of temporary driveways providing access into and out of the site.
- (f) The location and length of any proposed Works/Construction Zones. Note: such zones require the approval of the Waverley Traffic Committee and Council prior to installation.
- (g) The hours of operation of demolition/construction vehicles.
- (h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- (i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
  - i. the route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route;
  - ii. any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians;
  - iii. the type(s) of material on which pedestrians will be required to walk;
  - iv. the width of the pathway on the route;
  - v. the location and type of proposed hoardings;
  - vi. the location of existing street lighting.

**59. BICYCLE PARKING**

A total of 119 bicycle parking spaces are to be provided and shall be physically separated and signposted into 94 residential and 22 visitor and 3 retail spaces. 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 car parking area. Details are to be indicated on the plans prior to the issue of the Construction Certificate.

**60. CONVEX MIRRORS**

Convex mirrors shall be installed within the site at both driveways on Pine Lane to allow drivers exiting the site to view pedestrians and vehicles approaching along Pine Lane from both directions.

Details are to be submitted to the Principal Certifying Authority prior to the issue of a Construction certificate.

**61. VISITOR AND RETAIL CAR PARKING**

Visitor, retail and car share car parking spaces being signposted to Council's satisfaction.

**62. ACCESSIBLE CAR SPACE**

A minimum of 10% of all car parking are to be provided as car spaces for the vehicles of people with disabilities.

The car spaces shall be identified and reserved at all times and be in the vicinity of a lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions of 3.2m x 5.5m and minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.

A notice shall be displayed at the entrance to the car park and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles.

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

**63. ACCESS**

The development shall be provided with access and facilities for people with disabilities in accordance with AS1428.2 Design for Access and Mobility Part 2: Enhanced and Additional Requirements. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

**64. ADAPTABLE HOUSING**

Access in accordance with AS4299 - Adaptable Housing shall be provided to at least twelve units in the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

**65. ACCESSIBLE SIGNAGE**

Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.2.

**66. ROOFWATER GUTTERING**

All new or replacement roof guttering is to comply with the requirements of the Building Code of Australia and Australian Standard AS 3500 *Plumbing & Drainage Standards* to ensure that collected roof water does not flow back into the building.

**67. BASIX**

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

**68. USE OF RENEWABLE TIMBERS**

Council requires, wherever possible, the use of renewable timbers and/or plantation timbers such as Radiata Pine or Oregon as an alternative to the use of non-renewable rainforest timber products in buildings so as to help protect the existing areas of rainforest. In this regard, a schedule of proposed timber products to be used in the building is to be submitted for approval by the Principle Certifying Authority prior to the issue of the Construction Certificate. Where the applicant is to use timbers not recommended in Council's Policy, reasons are to be given why the alternative timbers recommended cannot be used.

**69. ENERGY AUSTRALIA**

The applicant to confer with Energy Australia to obtain that authority's needs for the provision and location of a kiosk type distribution centre on the subject land, and if deemed necessary, the applicant to make available land to that Authority for the siting of such kiosk/sub-station. Documentary evidence of compliance is to be provided to the satisfaction of the Principle Certifying Authority prior to the issue of the Construction Certificate.

**70. ARCHIVAL RECORDING OF EXISTING BUILDINGS**

A brief archival record (at a minimum the front and rear elevations, details of notable elements of each building eg the awning and foyers) shall be prepared of the existing building for deposit in Waverley Council's Archive. This record must be carried out prior to the removal of any significant building fabric (ie the street awning to the building at 255 Oxford Street) or

furnishings from the site and must be submitted to Council prior to the commencement of any demolition work and the issue of a Construction Certificate. The record shall comprise photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s), photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising:

- (a) adjacent buildings, building elevations, and important interior and exterior architectural spaces and features of the building/site;
- (b) a summary report of the photographic documentation; and
- (c) photographic catalogue sheets, which are referenced to a site plan and floor plan, no larger than A3 paper size, and indicating the location and direction of all photos (black & white prints and slides) taken.

## **C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION**

### **71. PRIOR TO SITE WORKS**

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

### **72. STREETSCAPE WORKS - BONDI JUNCTION / LOCAL VILLAGE CENTRES**

The footpaths surrounding the site are to be upgraded in accordance with Council's Draft Public Domain Technical Manual Bondi Junction/WDCP 2010. In this regard, the applicant is to confer with Council prior to commencement of the works.

### **73. HOME BUILDING ACT**

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

### **74. CONSTRUCTION SIGNS**

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

## **75. EXCAVATION AND BACKFILLING**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

## **76. EXCAVATION BELOW FOOTINGS**

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and
- (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

## **77. OBSTRUCTION TO PUBLIC AREAS**

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

## **78. MANAGEMENT OF ACIDIC SOIL**

Should the subject site show evidence of acid sulphate soils, the following shall apply:

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The *Cement and Concrete Association of Australia Technical Note TN57* is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
  - i) Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
  - ii) On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.

- (c) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

#### **79. POTENTIAL DEWATERING OF THE SITE**

Should dewatering of the site be required, the onus is on the developer to:

- (a) Undertake the necessary site investigations prior to construction;
- (b) Prove that a water table is present or absent;
- (c) Assess the feasibility of alternative construction methods;
- (d) Assess the potential contaminated site, acid sulphate soil and saline intrusion issues;
- (e) Design an appropriate and safe dewatering system;
- (f) Apply for a dewatering licence,
- (g) Provide a detailed geotechnical and hydrogeological report regarding construction dewatering and monitoring;
- (h) Design and implement a monitoring program;
- (i) Monitor, analyse, interpret and report on dewatering to Council. DWE and possibly DECC throughout construction;
- (j) Inform Council of unexpected site conditions (such as water tables or high seepage rates) and subsidence issues.

#### **80. ASBESTOS REMOVAL**

All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current Work Cover Asbestos or "Demolition Licence" and a current Work Cover Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission (NOHSC): "Code of Practice for the Safe Removal of Asbestos".

#### **81. TOILET FACILITIES**

Toilet facilities being provided on the work site in accordance with the requirements of Sydney Water.

#### **82. NO USE OF ORGANOCHLORIN PESTICIDES**

The use of organochlorin pesticides as termite barriers in new development is prohibited pursuant to Council Policy. Only physical barriers are to be used for termite control. The building shall comply with Australian Standard 3660: Protection of building from subterranean termites - prevention, detection and treatment of infestation.

#### **83. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS**

That prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste classification guidelines 2009. The classification of the material is essential to determine where the waste may be legally taken. The Protection of the Environment Operations Act 1997 provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the NSW EPA.

#### **84. USE OF FILL ON SITE**

All fill imported on to the site shall be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported onto the site shall also be compatible with the existing soil characteristics for site drainage purposes.

Council may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported on to the site should be validated by either one or both of the following methods during remediation works;

- (a) Imported fill should be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material should be conducted in accordance with the DECC Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

#### **85. HAZARDOUS MATERIALS AUDIT**

A Hazardous Materials Audit (HMA) must be carried out by a suitably qualified practitioner prior to site demolition. The HMA must assess the presence of structural and residual building materials that may be of environmental concern. The HMA must also ensure that hazardous materials that may have been used within the structural components of all buildings are adequately addressed to protect site personnel from risk of exposure.

#### **86. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS**

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS260-2001, Demolition of Structure and a Hazardous Materials Assessment by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) confirm that no asbestos products are present on the subject land; or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice for the Safe Removal of Asbestos NOHSC 2002 (1998);
- (d) describe the method of demolition;
- (e) describe the precautions to be employed to minimise any dust nuisance; and
- (f) describe the disposal methods for hazardous materials.



**87. DEMOLITION & SITE PREPARATION**

Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the DECC, and with the provisions of:

- (a) New South Wales Occupational Health and Safety Act, 2000;
- (b) The Occupational Health and Safety (Hazardous Substances) Regulation 2001;
- (c) The Occupational Health and Safety (Asbestos Removal Work) Regulation 2001;
- (d) Protection of the Environment Operations Act 1997 (NSW) and
- (e) DECC's Environmental Guidelines; Assessment, Classification and Management of Liquid and Non Liquid Wastes (1999).

**88. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

All site works complying with the occupational health and safety requirements of WorkCover NSW.

**89. SOIL AND WATER MANAGEMENT PLAN**

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the DECC's Managing Urban Stormwater: Construction Activities. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

**90. STOCKPILES**

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

**91. LOCATION OF BUILDING OPERATIONS**

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

**92. TEMPORARY DIVERSION OF ROOF WATERS**

Stormwater from roof areas shall be linked via a temporary downpipe to Council's stormwater system immediately after completion of the roof area. Inspection of the building frame will not occur until this is completed.

**93. ALL BUILDING MATERIALS STORED ON SITE**

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

**94. CONSTRUCTION HOURS**

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends;
- (b) Sundays and public holidays; and
- (c) On the Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which immediately precede or follow industry Rostered Days Off, as agreed by the CFMEU and the Master Builders Association of NSW.

**95. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES**

Where there is a strong community reaction to noise associated with demolition, excavation and/or construction, Council may require respite periods by restricting the hours that the specific noisy activity can occur.

Notes: If this is imposed, Council will take into account:

- 1. Times identified by the community when they are less sensitive to noise
- 2. If the community is prepared to accept a longer period of construction in exchange for restrictions on construction times.

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2000.

**96. USE OF HEAVY EARTH MOVEMENT EQUIPMENT**

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

**97. CONSTRUCTION NOISE - PERIODS OF 4 WEEKS OR UNDER**

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 20dB(A) when assessed at any sensitive noise receiver.

**98. CONSTRUCTION NOISE - PERIODS GREATER THAN 4 WEEKS**

The LA10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.

**99. NOISE - MECHANICAL PLANT**

Noise associated with mechanical plant shall not give rise to any one or more of the following:

- (a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy.

- (b) A sound pressure level at any affected property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use. The source noise level must be assessed as a LAeq, 15 minute.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from mechanical plant associated with the premises must not be audible in any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.
- (d) A Certificate is to be submitted at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment complies with the terms of approval in relation to noise.

#### **100. NOISE EMISSIONS**

The use of the premises shall not give rise to:

- (a) Transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy;
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

#### **101. AIR EMISSIONS**

The use of the premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act, 1997. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.

#### **102. BUILDING CODE OF AUSTRALIA**

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Sanitary facilities are to be in accordance with Part D3 of the Building Code of Australia and AS1428 (People with Disabilities).

#### **103. QUALITY OF CONSTRUCTION ACT – INSPECTIONS**

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certificate.

**MANDATORY** Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

- (a) at the commencement of building work;
- (b) after excavation for, and prior to the placement of, any footings;
- (c) prior to pouring any in-situ reinforced concrete building element;
- (d) prior to covering of the framework for any floor, roof or other building element;
- (e) prior to covering any waterproofing in any wet areas;
- (f) prior to covering any stormwater drainage connections; and
- (g) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls).

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

#### **104. CERTIFICATE OF SURVEY - LEVELS**

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

#### **105. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING**

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

#### **106. IN-SINK WASTE DISPOSAL SYSTEMS**

The installation of in-sink waste disposal systems is prohibited.

#### **107. MECHANICAL VENTILATION**

- (a) The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

(b) Any proposed mechanical ventilation system shall comply with the Australian Standard AS 1668 - 1991 (Parts 1 and 2). Prior to installation, the design is to be certified by a person competent to do so. At completion of the installation of the system and prior to the issue of the Occupation Certificate, the work shall be certified by a person competent to do so. The certification shall include:

- (i) inspection, testing and commissioning details;
- (ii) date of inspection, testing and commissioning details;
- (iii) the name and address of the individual who carried out the test; and
- (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

#### **108. REFRIGERATION UNITS & MECHANICAL PLANT**

All refrigeration motors/units or other mechanical plant are to be installed within the building in an acoustically treated plant room. In this regard, adequate provision is to be made within the confines of the building for any future refrigeration motors/units or other mechanical plant associated with any future use of the building. Details of the refrigeration units and mechanical plant along with the means of acoustically treating the plant room are to be provided with any development application for the use of the premises.

#### **109. NOISE FROM MECHANICAL VENTILATION**

The noise emanating from the mechanical ventilation system shall be in accordance with the requirements of Appendix B of the Australia Standard AAS 1055.2-1984 (Description and Measurement of Environmental Noise).

#### **110. CONTROL OF LEGIONNAIRES DISEASE**

- (a) All cooling towers and warm water systems must be operated and maintained in accordance with AS/NZS 3666 2011, the *Public Health Act 2010*, *Public Health Regulation 2012* and *NSW Health Code of Practice for the Control of Legionnaires Disease*.
- (b) The occupier of the building must register and provide particulars of any water cooling, and warm-water systems as required under the provisions of the *Public Health Act, 2010* and *Regulation*. Registration forms are available from Council.

#### **111. WATER PROOFING**

The floor and wall surfaces of the proposed wet areas being protected against water in accordance with the Building Code of Australia. The wet areas are to be examined and certified by an Accredited Certifier.

Note: Water proofing is to be in accordance with AS 3740 - Water Proofing of Wet Areas within residential buildings.

#### **112. HOT TAP WATER SCALDING**

To reduce the incidence of hot tap water scalding and, for the purpose of energy efficiency, all new or replacement hot water systems shall deliver hot water to a maximum 50 degrees Celsius at the outlet of all sanitary fixtures used for personal hygiene.

**113. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED**

The private open balconies attached to the proposed building are not to be enclosed at any future time, in accordance with the provisions of Council's General Policy. In this regard, the door openings within the external walls adjoining the private open balconies to be constructed so as to prevent the penetration of rain or other waters to the inner part of the building.

**114. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER**

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

**115. SERVICE PIPES**

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

**116. SEDIMENT REMOVAL FROM VEHICLE WHEELS**

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Soil and Water Management Plan for the site prior to the commencement of any site works or activities.

**117. NEW VEHICLE CROSSING**

New vehicle crossings are to be provided to access the proposed basement car parking and loading dock areas. A separate application is required for the vehicle crossings, with all work to be carried out with the approval of and in accordance with the requirements of Council.

**118. WORK OUTSIDE PROPERTY BOUNDARY**

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

**119. DISCHARGE OF COMMERCIAL OR INDUSTRIAL LIQUID TRADE**

Commercial or industrial liquid trade waste including waste water generated in the garbage storage area to be discharged to Sydney Water sewer is to be undertaken in accordance with the provisions of Sydney Water's Trade Waste Policy and Management Plan. In this regard, the applicant is to confer with Sydney Water prior to the commencement of building work.

**120. TREE PROTECTION MEASURES PRIOR TO CONSTRUCTION**

Trees to be retained and protected shall be clearly shown on any construction plans. Tree protection shall be as detailed in Appendices 4 & 5 of the arborist report submitted by Tree IQ, dated August 2012.

Tree protection measures are to be installed prior to any work (including demolition) Evidence by means of an arborist report and/or photographic evidence showing site context are to be submitted and approved by Waverley Council's Tree Management Officer prior to the commencement of any work including demolition.

#### **121. STREET TREES**

No existing street trees shall be removed without Council approval. A 1.8m high chain link wire fence or the like shall be erected around the existing street trees to protect them from damage during construction. Where approval is granted for the removal of a street tree the applicant is to pay for its replacement with a super advanced tree of a species nominated by Council.

#### **122. TREE PROTECTION**

Precautions shall be taken when working near street trees to ensure their retention, including the following:

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

#### **123. AWNINGS**

Awnings shall be a minimum of 3.5m above the footpath level and offset a minimum of 600mm behind the kerb.

### **D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION**

#### **124. SYDNEY WATER**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water website [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

#### **125. ROAD WIDENING**

Prior to the issuing of an Occupation Certificate, the 3m wide strip of land along the Pine Lane frontage required by Council for road widening purposes being dedicated to Council with all costs associated being borne by the applicant.

**126. ALLOCATION T OF STREET NUMBER**

If the parcels/properties of Lot 1 DP 795731 - 253 Oxford St and Lot 3 DP 4271 255 Oxford St are consolidated for the purpose of redevelopment, the allocated street number will be 253 Oxford Street, Bondi Junction

Upon any subdivision occurring the proposed allotments shall be clearly allocated retail lots 1-4 and residential lots 5-95.

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. The street number is to be positioned on the site prior to the issue of the Occupation Certificate

Any variation to the above street numbering requires a new application to be lodged with Council.

**127. WASTE STORAGE**

The following requirements apply to waste management:

- (a) A waste management plan must be submitted to Council to include all waste removal arrangements such as the Contractor, recyclables and all other waste (collection and disposal), prior to the occupation of the premises.
- (b) Provide a separate waste storage area suitably covered, bunded and drained to the sewer. The waste storage receptacles must be maintained in good order and repair at all times.
- (c) Provide a suitable storage area affectively bunded for chemicals, pesticides and cleaning products.
- (d) Provide a separate storage area for used and unused cooking oils suitably covered, bunded and drained to the sewer.
- (e) Provide dry basket arresters to the floor wastes in the food preparation and waste storage areas.
- (f) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.

**128. PARKING PERMITS**

In accordance with Council's Policy, Residents Preferential Parking Scheme permits will **not** be issued for this development when it is completed.

**129. RECYCLING OF WASTE PAPER**

The operator of the business shall ensure that waste paper is recycled. In this regard, the operator shall make arrangements with the owner to transfer paper for recycling to the recycling room for removal by a recycling agent.



**130. DISPLAY OF WASTE MANAGEMENT PLAN**

The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan. An additional copy of the plan shall be displayed in a secure, visible and accessible position within or adjacent to the waste storage area. The approved Waste Management Plan must be complied with at all times during occupation.

**131. CERTIFICATION – NOISE: PLANT AND EQUIPMENT**

A Certificate is to be submitted at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment including the cooling towers, mechanical supply and exhaust ventilation systems and freezer and refrigeration motors comply with the terms of approval in relation to noise.

**132. NOISE ATTENUATION CERTIFICATE**

On completion of any building containing residential units and prior to the issue of the Occupation Certificate the applicant shall:

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with condition 50.
- (b) Lodge with Council for public record, the noise attenuation star rating results.
- (c) Provide certification demonstration compliance with condition 51 as imposed by the Roads and Traffic Authority.

**133. SLIP TESTS OF COMMON AREAS**

Common area tiles should not have slippery finishes. Slip tests should be undertaken in wet conditions.

**134. LANDSCAPE PLAN**

The site is to be landscaped in accordance with the approved landscaped plan with the landscape works completed prior to the issue of the Occupation Certificate.

**135. TELECOMMUNICATIONS**

Notification of arrangement with Telstra and/or Optus for the provision of a telephone supply to each lot is to be submitted to the satisfaction of the Principle Certifying Authority prior to the release of the Subdivision Certificate.

**136. TACTILE NUMBER IN LIFT**

The applicant is advised that with regard to the provision of the lift in the building, it will be necessary for tactile numbers to be placed on each level of the building and within the lift to assist visually impaired people.

**137. STREET NUMBER/S**

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. Should the number be fixed to an awning then it shall be a minimum 150mm high.

**138. LIGHTING**

Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the *Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting*.

**139. USE OF COMMON PROPERTY**

No exclusive use of common property (other than for approved storage) shall occur without the prior consent of Council. In this regard the applicant is to register a restriction as to user that prohibits the separate occupation, use or disposition of the land by way of agreement, instrument or dealing including and agreement, instrument or dealing evidenced by a company's constitution or articles of association. The restriction as to user is to be registered prior to the issue of the Occupation Certificate.

**140. NOISE – PLANT AND EQUIPMENT**

A Certificate is to be submitted to Council at the completion of all work and prior to the issue of an Occupation Certificate, from a suitably qualified Acoustic Engineer. The Certificate is to certify all plant and equipment including mechanical supply and exhaust ventilation systems (including the car park) and freezer and refrigeration motors comply with the terms of approval in relation to noise.

**141. REGISTRATION OF COOLING TOWERS**

Registration of the cooling towers is required in accordance with the Public Health Act 1991 prior to the issue of a final occupation certificate.

**142. OCCUPATION CERTIFICATE**

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

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