

DEVELOPMENT APPLICATION ASSESSMENT

Waverley
Council

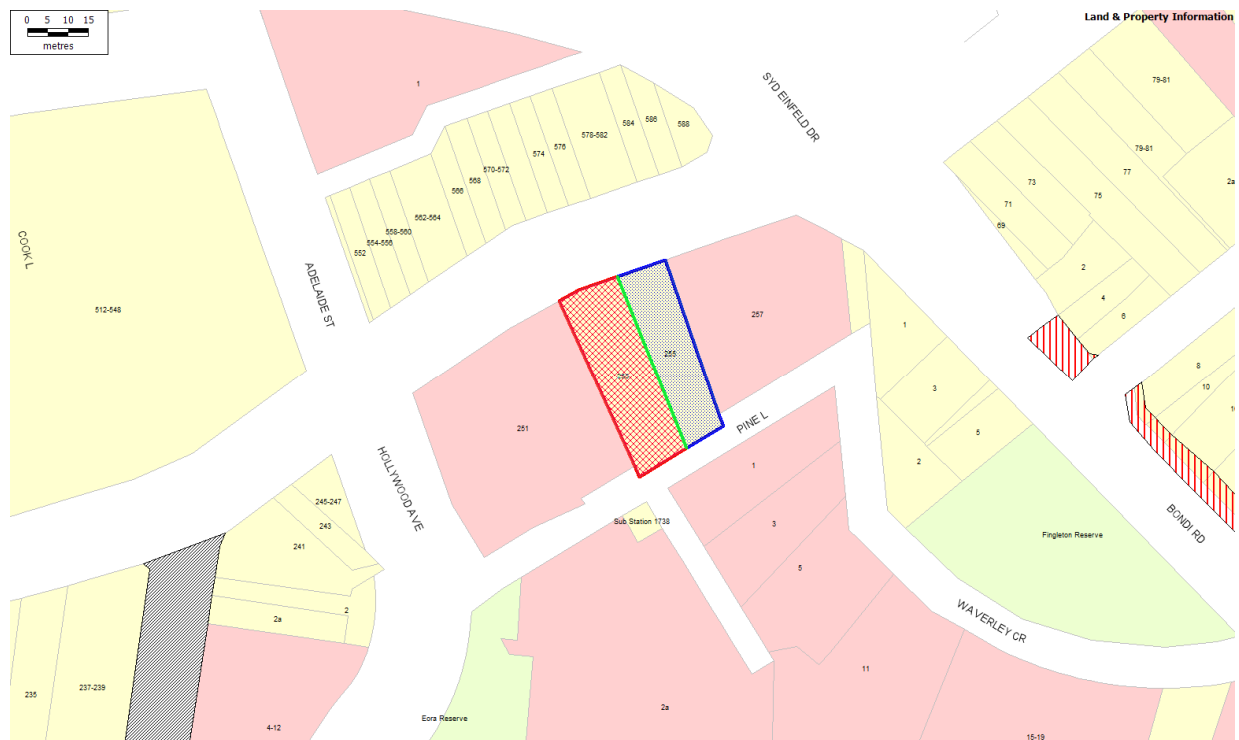
Bondi Junction Centre development

REPORT TO JOINT REGIONAL PLANNING PANEL

253 - 255 Oxford Street, Bondi Junction (DA-539/2013)

Proposal	Demolition of buildings, construction of a 22 storey mixed use building with affordable housing component.
Date of lodgement	10 December 2013
Owner	Legpro 14 Pty Limited
Applicant	Mecone Pty Ltd
Submissions	Ten submissions
Cost of works	\$42.7 million
Issues	Significant non compliance with LEP height standard. Environmental impacts of height and floor space and CI 4.4B of LEP.
Recommendation	Refusal

Site Map



EXECUTIVE SUMMARY

Relevant history:

Previous application (DA-386/2012)

In June 2013, the JRPP approved a development application for this site (DA-386/2012). This application was for the construction of a 20 storey mixed use building with basement carparking.

The approved development generally complied with the LEP development standards for maximum height and floor space ratio.

A Construction Certificate (stage 1) has been issued and works have commenced under this development consent.

Section 96 to DA-386/2012

The applicant has also submitted a separate application (DA-386/2012/A) to modify the previous development consent. This modification application encompasses mainly internal changes to the approved building and has not yet been determined pending the outcome of the new development application as these works are encompassed within the current proposal.

Current application (DA-539/2013):

The applicant has submitted a new development application for this site. The new application can generally be summarised as follows:

- the same development as that previously approved under DA-386/2012;
- plus the modifications proposed under the undetermined section 96 application (DA 386/2012/A);
- plus the addition of two extra levels on top of the approved building.

This new application is for the construction of a 22 storey mixed use building with basement carparking. The current application seeks two significant additions from the previous consent. Both of these are changes to development standards in Waverley LEP 2012.

- Increase the gross floor area of the development by 1054sqm (15%)
- Increase the height of the approved building by approximately 10.5m (two levels)

Development Standard – Clause 4.4 Floor Space Ratio:

The maximum allowable FSR under clause 4.4 of WLEP for this site is 6:1. The proposal (by way of the additional two levels) will result in the building exceeding the 6:1 maximum floor space ratio under the LEP by approximately 1054sqm (15%).

The applicant seeks this variation pursuant to clause 4.4B – *Incentives for Providing Affordable Rental Housing*. This clause provides floor space incentives of up to 15% of the maximum where the development incorporates a public benefit by way of affordable housing.

The applicant has agreed to provide the requisite amount of affordable housing in accordance with the clause.

Development Standard – Clause 4.3 Height of Buildings:

The maximum allowable height under clause 4.3 of WLEP for this site is 60m. The additional two levels proposed under this application will result in the building exceeding the 60m maximum height under the LEP by approximately 10.46m. The applicant has lodged an application to vary this standard pursuant to clause 4.6 – *Exceptions to Development Standards*.

Conclusion:

There are a number of overriding factors for recommending refusal of this application:

1. The breach of the FSR maximum when combined with the breach of the 60m height maximum results in additional overshadowing in excess of that from the previous “complying” development.
2. This additional overshadowing caused by the FSR and height exceedance will impact both private areas (residential units in other buildings within the vicinity) as well as public space (nearby park).
3. The extra two levels will result in some degree of view/outlook loss to the building at No.2A Hollywood Avenue.
4. These impacts would not arise with a complaint height building.
5. Clause 4.4B of WLEP only provides for a variation to the FSR standard. It provides no dispensation for the height standard and the applicant has not satisfied the requirements under clause 4.6 in this respect. Whilst meeting the technical provisions under Clause 4.4B, is not considered that the degree of public benefit reasonably justifies the environmental impacts that arise from the variation in height.
6. The height control has been consistently applied to developments within the Bondi Junction Centre and variations have only been supported where the applicant has been able to demonstrate that the impacts are acceptable having regard to all relevant statutory and Council Policy matters.

Whilst an additional gross floor area of 15% above the standard may be acceptable in certain circumstances, having regard to the impacts created by the location of the upper two levels and additional 1054sqm of floor space in this development; and the degree of public benefit being offered by the applicant, the development is considered unacceptable and the application is recommended for refusal.

RECOMMENDATION TO THE JOINT REGIONAL PLANNING PANEL

That the Development Application be **REFUSED** by the Sydney East Joint Regional Planning Panel for the reasons in Appendix A

1.1 SITE AND SURROUNDING 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 existing buildings on the site; a three storey building on 255 Oxford Street (Lot 3, DP 4271) and nine storey building on 253 Oxford Street (Lot 1, DP 795731). Both buildings comprise ground floor retail and commercial office (mainly medical suites) in the upper levels. The two sites are currently enclosed by scaffolding, as works to the site have begun under the previous development consent (DA-386/2012). A Stage 1 construction certificate has been issued (CC-14/2014) for the demolition of the existing buildings on the two sites.

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 down to the front of the site of approximately 5.07m.

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



Figure 1: Subject site frontage (prior to erection of scaffolding)

1.2 PROPOSAL

The application seeks permission for the demolition of the existing buildings and construction of a **22 level mixed use development containing 101 residential units** with basement parking containing 89 car parking spaces, retail tenancies at ground level. Vehicular access to the basement car park is to the rear via Pine Lane.

The proposed building consists of;

- *Basement Level 3* - 32 car parking spaces (13 of which are visitor spaces and 3 and motorcycle spaces;
- *Basement Level 2* - 29 car parking spaces, motorcycles spaces, lifts and stairs;
- *Basement Level 1* - 21 car parking spaces, motorcycle spaces, lifts and stairs,
- *Level 1* - through site link, 2 x retail tenancies, bicycle storage room, amenities, storage, residential lobby, stairs and lifts, vehicle access ramp, plant and fire control room;
- *Level 2* - 7 car parking spaces, retail tenancy, plant rooms, bicycle storage room, OSD tank, lifts and stairs;
- *Level 3* - vehicular ramp to basement car park, loading bay, retail tenancy, garbage storage rooms, substation, lifts and stairs, 4 residential units;
- *Level 4* - 5 residential units, landscaped communal open space;
- *Level 5* - 5 residential units, void to landscaped communal open space to level 4 below;
- *Level 6 to 14* - 6 residential units, lift and stairs, plant and garbage rooms;
- *Level 15*- 5 residential units, lift and stairs, plant and garbage rooms;
- *Level 16*- 4 residential units, lifts and stairs, plant and garbage rooms;
- *Level 17 and 18* - 5 residential units, lifts and stairs, plant and garbage rooms;
- *Level 19 and 20* - 5 residential units, lifts and stairs, plant and garbage rooms (for each level)
- *Level 21*- 4 residential units, lifts and stairs, plant and garbage rooms (for each level)
- *Level 22* - Continuation of 2 split level units below.

The building includes 212m² of retail floor space and 7861m² of residential floor space.

The application proposes the provision of 529m² of affordable housing, specifically Units, 1901, 1902, 1903, 1904, 1905, 2001, 2003, 2005 pursuant to Clause 4.4B of the Waverley LEP 2012.

The frontage of the building is to Oxford Street and presents as a two storey podium / street wall with awning and 20 storey tower above, while the rear of the building faces Pine Lane, a service lane. As part of the previous DAs for the site (DA 334/2009) and (DA-386/2012) 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.



Figure 3: Applicant's photo montage of the proposal

1.3 RELEVANT HISTORY

- **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 by Waverley Council.

This application was assessed under previous planning instruments (Waverley LEP 1991 and Draft Bondi Junction LEP 2010) which were relevant to the site at that time.

- **2012: Previous Development Application (DA 386/2012) - Mixed Use Building**

In 2012, consent was granted for the demolition of existing buildings and construction of a mixed use **19 level development containing 94 residential units**, ground level retail and basement level parking.

The application was assessed under former LEP Waverley Local Environmental Plan (Bondi Junction Centre) 2010 and Waverley Development Control Plan 2010 which were relevant to the site at that time. The proposal complied with the maximum height (60m) and FSR (6:1) permitted under that LEP.

The application was determined by the Joint Regional Planning Authority and consent was granted on 27 June 2013.

- **2014 : Construction Certificate (CCB-14/2014) - Mixed Use Building**

In January 2014, a stage 1 construction certificate was issued to begin works approved under the above development consent (DA-386/2012). The construction certificate allowed for the demolition of the existing 8 level brick and concrete building and demolition of existing 2 level brick and tile building (ie. the existing buildings on site).

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 AND DCP

SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented, should the application be approved.

SEPP 55 Remediation of Land

Clause 7 of the SEPP requires Council to consider whether the land is contaminated. The site was 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. A preliminary environmental site assessment report was prepared by Environmental Investigation Services to assess the potential contaminants on site.

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. This matter was addressed as a condition of consent under the previously approved DA for this site DA-386/2012. The condition is below.

Prior to the issue of the relevant 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.

Should the panel grant development consent for the proposal, this condition is recommended to be imposed.

SEPP 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 by the panel. The same shortfalls of the design identified by the panel in the previously approved scheme (DA-386/2012/A) were identified in the review of this scheme also. These matters were discussed in the previous assessment report, and some of those issues were addressed via condition by the Panel, others were not. Given these matters were previously considered under that approval, they are not revisited as a part of this assessment report. Conditions are recommended as per the previous approval, should the application be approved.

SEPP (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 is outside of the designated corridor area and does not require referral to RailCorp.

Waverley Local Environmental Plan (LEP) 2012

The relevant matters to be considered under the Waverley LEP 2012 for the proposed development are outlined below:

Waverley LEP 2012 – Compliance Table		
Development Control	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal does not contravene the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table B4 Mixed Use Zone	Yes	A mixed use building is permissible within the zone.
Part 4 Principle development standards		
4.3 Height of Buildings 60m height limit	No	The application proposes a height of 70.46m. See Clause 4.6 and the discussion in the <i>Issues</i> section of this report.
4.4 Floor space ratio = 6:1 Site Area = 1,171m ² Max GFA = 7,026m ² 4.4B Incentives for providing affordable rental housing	Yes	The application proposes an additional 15% additional floor space equating to 8079.9m ² , offering affordable housing in accordance with Clause 4.4B.
4.6 Exceptions to Development Standards	No	The applicant has addressed Clause 4.6 of the LEP to justify the proposed breach to the 60m height control. It is considered that the proposal is not in the public

		interest. This matter is discussed in the <i>Issues</i> section of this report.
Part 5 Miscellaneous provisions		
5.9 Preservation of trees or vegetation	Yes	Conditions of consent have been recommended to ensure the protection and health of the street tree recommended to be retained at the front of the site.
Part 6 Additional local provisions		
6.1 Acid sulphate soils	N/A	The site is not identified as being effected by acid sulphate soils
6.2 Earthworks	Yes	A Geotechnical report has been submitted with the application.
6.3 Flood planning	N/A	The site is not identified as potentially being effected by flood.
6.5 Active street frontages in the Bondi Junction Centre	No	Similar to the proposed scheme under DA-386/2012, it was recommended that the curved glazing of the retail areas facing Oxford Street should be amended to align (squared off) with the street alignment to activate the street. This was recommended by condition by the Council's planning department however not endorsed by the Joint Regional Planning Panel in the conditions of approval.

Waverley Development Control Plan (DCP) 2012

The relevant matters to be considered under the Waverley DCP 2012 for the proposed development are outlined below:

Waverley DCP 2012 – Part B General design provisions		
Development Control	Compliance	Comment
1. Waste	Yes	The applicant has submitted a waste management plan which has been reviewed and considered satisfactory, subject to conditions of consent.
2. Energy and water conservation	Yes	A BASIX certificate has been submitted with this application. No further environmental initiatives have been proposed.
4. Tree preservation	Yes	Conditions of consent have been recommended to ensure the health of the street tree recommended to be retained at the front of the site.
5. Stormwater management	Yes	The proposed stormwater design is considered satisfactory, subject to conditions of consent.

6. Accessibility and adaptability	Yes	A BCA report has been submitted with the application, which assesses the buildings performance against Part D3 of the BCA for access and egress. Recommendations are made in the report, which can be addressed at CC stage. 10% of the units are required to be adaptable dwellings. The Statement of Environmental Effects notes that 11 adaptable units are included, however these are not identified on the plans. A condition of consent will be imposed in this regard to ensure compliance with this control.
7. Transport	Yes	89 car parking spaces are provided, within the maximum number permitted for the site, as well as 112 bike parking spaces and 13 visitor spaces. The development complies, however 7 car parking spaces are provided above ground which is not supported.

Waverley DCP 2012 – Part C2 Residential development – Multi Unit and Multi Dwelling Housing <small>*Only the relevant controls of this part are assessed below</small>		
Development Control	Compliance	Comment
2.4 Excavation <ul style="list-style-type: none"> Min 1.5m setback from side boundaries Under building footprint except main access ramp Basements no more than 1.2m out of the ground Geotech report when > 3m in depth or 25% slope 	Yes	<p>Excavation occurs to the side boundaries. This however is the same as the previously approved development, and not dissimilar to other approvals in the Bondi Junction area. The excavation occurs under the building footprint.</p> <p>The basement level is wholly underground.</p> <p>A Geotech report has been submitted.</p>
2.10 Vehicular Access and Parking	Yes	The proposed vehicular access is a singular 2 way driveway and is accessed from the rear of the site to Pine Lane. The vehicular access is integrated into the design of the building. Pedestrian access is separate at the front of the site.
2.11 Pedestrian Access and Entry	Yes	The pedestrian access and entry is at street level, accessible and legible. Conditions can be imposed to ensure that appropriate lighting is provided to the entrance should the application be approved.

2.22 Acoustic Privacy	Yes	An acoustic report has been submitted makes recommendations to attenuate noise to a suitable level for the amenity of residents.
2.23 Natural Ventilation	Yes	70% of the units are to be cross ventilated in the development, meeting the 60% requirement in the DCP.
2.24 Building Services	No	The plant on the roof of the building occupies more than 20% of the roof and are within 2m of the building edge in some places. This matter can be addressed via condition should the application be approved.

Waverley DCP 2012 – Part E1 Bondi Junction Centre		
Development Control	Compliance	Comment
CI 1.1 Built Form 2/3 block edge form	Yes	A block edge/street wall of 3 storeys is provided and is acceptable. The tower form of the building is setback from the block edge/street wall. This is the same as the previously approved scheme.
CI 1.2 Building Use Dependent on street classification (i.e. Primary, Secondary, Laneway) Oxford Street is a primary shopping street.	Yes	The proposal complies by providing retail uses on the ground level to Oxford Street, however fails to provide commercial/retail space at first floor level, however this was accepted in the previous approval for the site. More than 85% of the Oxford St frontage is retail shop fronts. The residential entrance occupies less than 15% of the frontage, satisfying the control.
CI.1.5 Active Street Frontages Dependent on street classification (i.e. Primary, Secondary, Laneway)	No	The DCP requires that 90% of the front of the building to be aligned to the street boundary for the ground and first level. The splayed glazed windows to Oxford Street do not comply with the DCP and recommended to be aligned with the street via condition. The JRPP deleted this requirement in the previous approval. The application proposes a through site link in accordance with the DCP, providing a retail tenancy to the rear lane.
CI.1.6 Street Alignment & Front Setbacks Front elevations aligned to street boundary	Yes	The development aligns with the street edge of the adjoining buildings either side of the site.
CI.1.7 Separation	No	The proposal does not comply with the distance separation prescribed in the DCP.

		The distance separations however have been accepted in the previous approval for the site and is therefore accepted.
Cl.1.8 Side & Rear boundary setbacks	No	The western side of the building does not comply with the side setback requirements and the eastern side setback has a minimum 12m side setback. This configuration however was accepted in the previous approval for the site.
Cl.1.9 Building Footprint	Yes	The proposal complies with the controls for the block edge component of the building. The habitable rooms within the tower is not more than 8m from a source of sunlight.
Cl.1.10 Building Orientation	Yes	Living areas are predominantly orientated to the streets complying with the DCP. The living areas which face east and west are to be clarified and rationalised, and is addressed as a condition of consent (as per the previous approval).
Cl.1.11 Number of Storeys	No	The DCP requires a maximum of 16 storeys for this site, and a block edge of 6 storeys. Given the context of the site, the 2 storey block edge form was accepted in the previous approval. The number of storeys is discussed in detail below.
Cl.1.12 Views, Vistas & Tree Preservation	Yes	The proposal does not interfere any street view corridors nor public domain vistas.
Cl.1.13 Design Excellence	No	Similar to the previous approval, materials and finishes need to be further developed. This matter is addressed as a condition should the application be approved, as per the previous approval.
Cl.1.14 Building Elevations	No	The Design Review Panel were critical of lack of detail on elevations and finishes. This matter is to be addressed as a condition.
Cl.1.15 Public Art in the Private Domain	Yes	Public Art is proposed for the development between commercial tenancies at the front of the site. Conditions are recommended in this regard.
Cl.1.16 Awnings & Colonnades	Yes	The awning to Oxford Street is 3.4m, complying with the DCP control of 3.2m - 4.2m.
CL.1.18 Designing buildings for flexibility	No	The building fails to provide flexibility in the podium level to accommodate possible future commercial uses at that level, as envisaged by the DCP controls. The first floor level consists of a void area over the retail below and car parking at level 2 and large areas of residential storage at level 3 (rather than providing storage in the basement levels or the units themselves).
Cl.1.19 Ceiling Heights Ground -4m	No	The proposal fails to provide the 4m floor to ceiling height at ground floor level.

Level 1-5 (podium) - 3.5m Residential - 2.7m		
Cl.1.20 External Living Areas <ul style="list-style-type: none"> 12m² area and 2.5m minimum dimension. 	No	75% of the apartments provide adequate external living areas, that being a minimum of 12m ² with 2.5m depth. The additional levels proposed under this DA replicate the floor plates below, repeating the layout of the units with inadequate private open space. Given this aspect of the proposal was endorsed under the previous approval, it is not a matter of contention of this application.
Cl.1.21 Wind Mitigation	Yes	A wind study was submitted with the application, notes that the wind conditions associated with the proposed development would not cause any adverse wind effects to the local surrounding area, and the measured wind conditions for the trafficable outdoor areas within and around the site will satisfy the relevant criteria for comfort and safety.
Cl.1.22 Reflectivity	Yes	A reflectivity report was submitted with the application with recommendations to address glare from reflective surfaces. The recommendations are to be met as a condition of consent.
Cl.1.23 Roller Shutters <ul style="list-style-type: none"> Prohibited on shopfronts 	Yes	Roller shutters are not proposed in the documentation submitted with the DA. This will form a condition of consent should the application be approved.
Cl.1.24 Outdoor Advertising, Signage & Structures	Yes	Signage and advertising has not been applied for under this application. This will require separate approval and is addressed via conditions of consent.
C.1.25 Access and Movement	Yes	A through site link is proposed to Pine Lane. The link doesn't provide active uses on levels 1 and 2 and is not open to the sky, contrary to the controls. These non compliant aspects however were accepted in the previous approval for the site.

ISSUES

Height

Clause 4.6 - Exceptions to development standards

The application proposes a height of 70.46m to Oxford Street, and 65.57m to Pine Lane to the rear. The breach in the 60m height control results in additional overshadowing to other buildings within the vicinity and potential view/aspect loss to the building at No.2A Hollywood Avenue.

The Planning Principle - Davies v Penrith Council (2013) in NSWLEC 1141 is used as a mechanism to discuss the impact of the non compliant height below, as well as an assessment of the Clause 4.6 of the LEP.

Figures 4, 5 and 6 below demonstrate the shadow of the approved building **in red** (with compliant height and FSR approved under DA-386/2012) and additional shadow cast from the proposed building with 2 additional levels which breach the 60m height limit **in green**. The existing shadow of surrounding buildings is shown **in blue**.

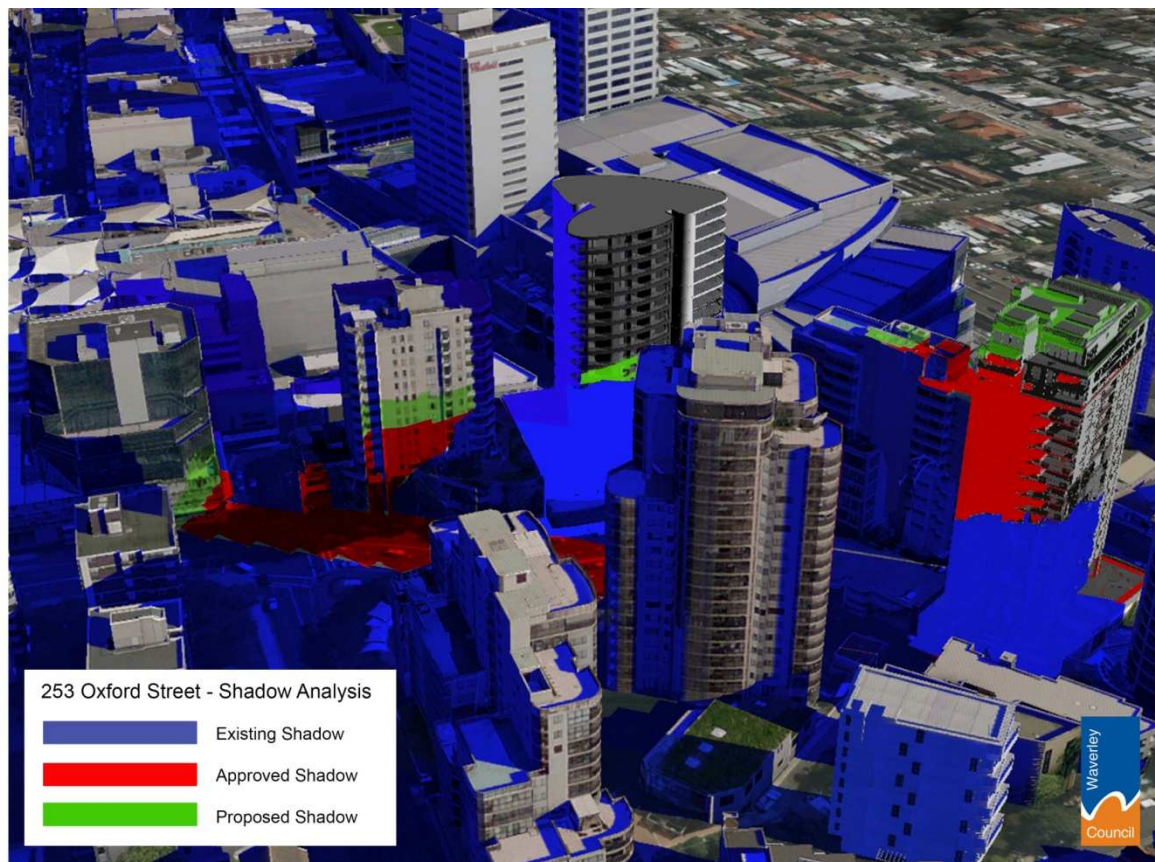


Figure 4: 9am shadow comparison

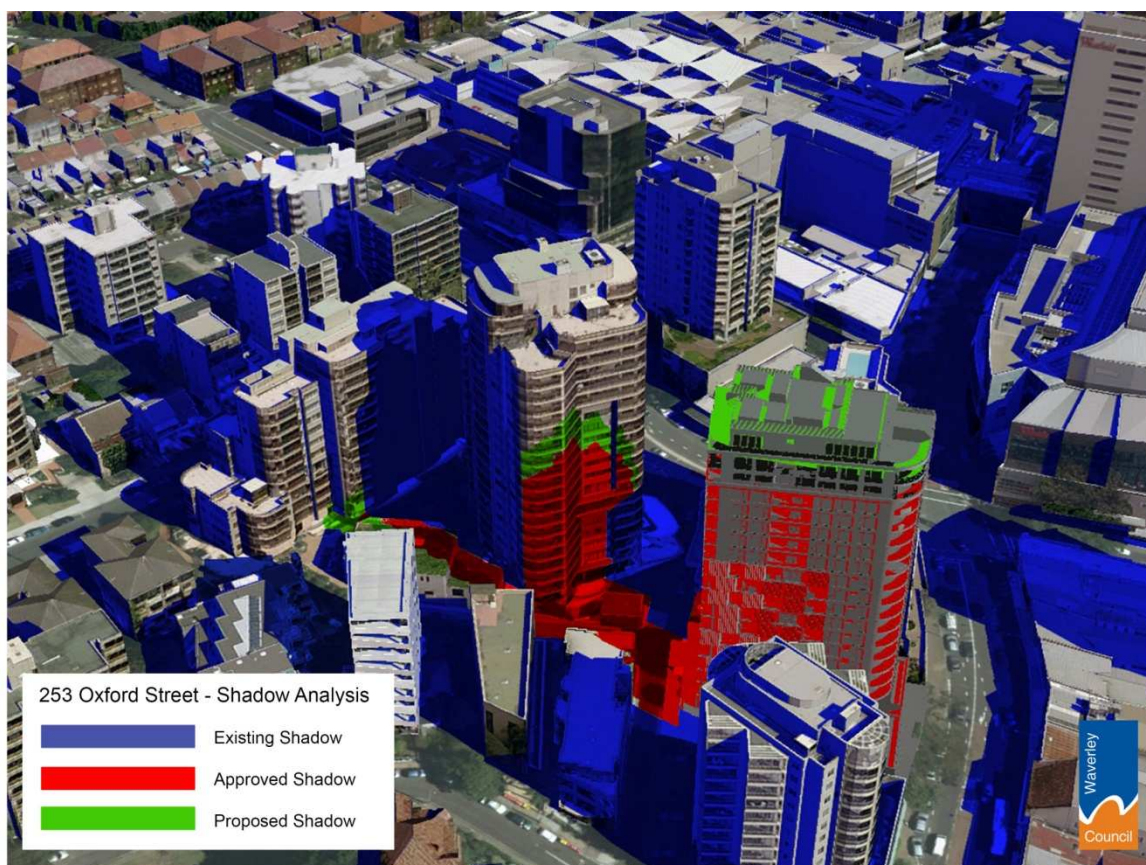


Figure 5: 12 noon shadow comparison

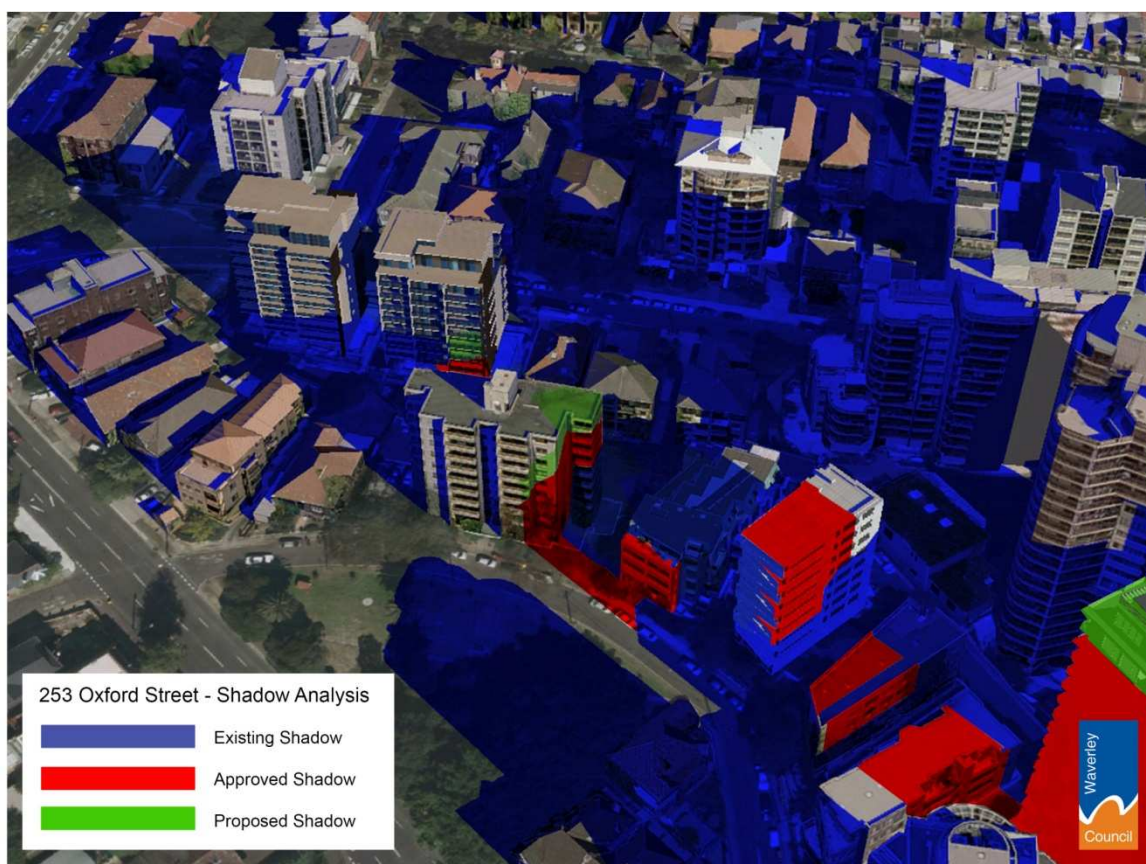


Figure 6: 3pm shadow comparison

The considerations of NSW Land Environment Court, *Planning principle: criteria for assessing impact on neighbouring properties* revised in *Davies v Penrith Council* (2013) in NSWLEC 1141 is discussed below;

- (i) *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

As shown in the diagram above, the proposal will affect the sunlight of additional units in nearby residential flat buildings, which would not be effected by the approved (and compliant) building. The building was approved under DA-386/2012 with a compliant building height and floor space. That sunlight would be retained under compliant building which was approved by the Joint Regional Planning Panel.

- (ii) *How reasonable is the proposal causing the impact?*

The term 'reasonable' is defined in the Oxford Dictionary as "*Having sound judgment; fair and sensible*".

Clause 4.4B of Waverley LEP 2012 allows that development consent **may** be granted for up to an additional 15% of the maximum gross floor area where the development includes the requisite amount of affordable housing for **at least** 3 years.

The objective of clause 4.4B is:

"...to increase the supply of affordable rental housing for very low, low and moderate income earning households by providing incentives for the development of new affordable rental housing."

This objective is considered to be a public purpose and therefore the clause provides a development incentive to achieve an acceptable public benefit (ie the provision of affordable housing).

In assessing the reasonableness of the proposal, it is appropriate to consider the degree of public benefit and the degree of impact. A proposal that provides a relatively small public benefit should also result in a relatively small impact whilst if a proposal incorporates a large public benefit, it may be reasonable that there is a commensurately greater impact.

When considered in this context, the provision of a relatively small amount of affordable housing for a short time (just 3 years) within the development is not considered reasonable when weighed against the additional impacts created by the additional height/FSR.

In consideration of 'fairness', no other building within the Bondi Junction Centre has been granted a significant variation to the height control (of between 5 m to 10m) without the provision of a significant public benefit which was determined in accordance with an adopted council policy and considered on a case by case basis.

To approve this breach in height is considered unreasonable.

- (iii) *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

It is recognized that in a high density area such as the Bondi Junction Centre, surrounding buildings are vulnerable to additional shadowing impacts. However, degree of impact is ordinarily based upon the maximum values of the development standards and controls.

- (iv) *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

Impacts would potentially be reduced by incorporating additional floor space within the existing building. There are a number of areas that could be converted to usable floor space without changing the envelope of the building.

The 15% bonus floor space proffered by Clause 4.4B equates to 1054m². To equally distribute this additional floor space over the approved envelope (approx 20 levels) would result in additional 53m² (should it be spread evenly) on each level below. However, there lies an opportunity for more floor space to be distributed into the podium level of the building, which has been reconfigured to include car parking at level 2.

The DCP for the Bondi Junction town centre envisages more floor space to be provided within the podium level of the building, requiring at least one level of retail at ground level and at least one level of commercial space above. This was raised as an issue in the previous assessment report however the building has been approved with only retail space at ground level, with minimum gross floor area within the podium level of the building. This non compliant height could be addressed with the distribution of the bonus floor space into the podium level of the building.

The redistribution 15% bonus floor space to within the building envelope controls (ie. within the 60m height) would remove the majority of impacts to those residential flat buildings that have been identified in the figures 4,5 and 6 above.

The level of analysis provided by the applicant lacked consideration of the real impacts to the apartments of buildings within the vicinity (as demonstrated in the figures above), raising uncertainty regarding the level of consideration given to alternative designs to mitigate those impacts by redistribution of the floor space to within the development.

- (v) *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?*

The additional impact is a result of the non compliant height proposed.

In addition to consideration of the impacts, the consent authority must also consider Clause 4.6 of the LEP. The written justification provided under cl.4.6 fails to adequately address the matters required to be demonstrated pursuant to cl.4.6(3) and does not provide sufficient justification that the proposal which breaches the maximum 60m height control will be in the public interest contrary to cl.4.6(4)(a)(ii). In this regard, it is not considered that the proposal is in accordance with the objectives of the development standard.

It is therefore recommended that the variation to the height development standard not be supported.

Other issues and modifications

As noted in the Executive summary of this report, the application also proposes additional changes to the building; those in summary include;

- Modifications to the basement car park levels 1, 2 and 3 including reconfiguration of the location of storage areas, plant room fire stair bicycle parking and car spaces and modification to the driveway gradient. The basement levels are also proposed to be located 500mm closer to the northern boundary.
- Reconfiguration of plant, storage, garbage and service areas on levels 1,2 and 3
- Reconfiguration of internal layout of residential units on levels 3 to 19.
- Glazing modifications to units on levels 3 to 19
- Modification to fire stair on all levels.
- Modification to the unit mix (ie more 3 bedroom units)
- Structural columns added to building
- Modifications to external louvres

In relation to the above modifications, they are supported in principle as they are not significantly varying from the previous approval under DA-386/2012. The car parking proposed to be provided at Level 2 however is not supported, as it is contrary to Clause 1.25.4(a) of WDCP. Car parking should be completely underground with useable floor space provided in the podium and tower levels.

The application also breaches the maximum number of storeys in the DCP (16 maximum) . In the previous development application, the number of storeys was accepted at 20 storeys (mezzanine) as the building was within the height control (60m) and the amenity of the lower levels was of an appropriate standard, despite not complying with the floor to ceiling heights in the DCP.

The current DA seeks a further 2 levels to accommodate the additional floor space. This non compliance is not considered acceptable on the basis of issues raised within this report.

2.2 SECTION 79C(1)(B) – OTHER IMPACTS OF THE DEVELOPMENT

It is considered that the proposal will have a detrimental environmental, and social impact on the locality, and therefore is recommended for refusal.

2.3 SECTION 79C(1)(C) – SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site is considered to be unsuitable for the proposed development.

2.4 SECTION 79C(1)(D) – ANY SUBMISSIONS

The application was notified and advertised in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

Ten submissions were received. The issues raised in the submissions are summarised and discussed below.

Issue: Overdevelopment of the site

Response: It is considered that the additional 2 levels of the site with a lack of public benefit results in an overdevelopment of the site.

Issue: Affordable housing is not 'real public benefit'

Response: This is a subjective statement made by the objector. The applicant has proposed affordable housing units in accordance with Clause 4.4B of the Waverley LEP 2012.

Issue: Unacceptable view impacts

Response: The additional levels proposed will result in view loss from the apartments which would not have a loss of view from a building with a compliant height.

Issue: Request for conditions regarding; dilapidation report, photo survey and excavation

Response: Conditions regarding the above are recommended (where considered appropriate) in the attachment of this report, should the application be approved.

Issue: Wind impacts

Response: The wind report submitted notes that the wind conditions associated with the proposed development would not cause any adverse wind effects to the local surrounding area, and the measured wind conditions for the trafficable outdoor areas within and around the site will satisfy the relevant criteria for comfort and safety.

Issue: Traffic and parking impacts

Response: A traffic report was submitted with the application assessing the impact of the additional units/population proposed in this development application than the previously approved development application. The report concluded that the traffic movements are acceptable. The proposal was assessed by Council's Manager of Traffic and Development and no issues were raised in this regard.

Issue: Construction management inadequate

Response: Management of construction vehicles, and noise are matters which are addressed via conditions of consent, should the application be approved.

Issue: Acoustic assessment does not address mechanical plant

Response: Conditions of consent have been recommended by the Environmental Health Department regarding noise from mechanical plant.

Issue: Concerns regarding asbestos

Response: Appropriate conditions of consent are recommended to be imposed regarding asbestos, should the application be approved.

Issue: Nuisances from Construction

Response: Nuisances from construction are not sufficient ground to refuse an application. Appropriate conditions of consent are recommended, to protect amenity to within the acceptable standards, should the application be approved.

Issue: Shadowing impact

Response: Shadowing impacts have been discussed within the body of this report.

Issue: Lack of apartment mix

Response: The development does not provide a mix of apartments that complies with the DCP, however a mix of accommodation has been proposed, which is considered to provide an acceptable level of housing choice for the area.

Issue: Privacy and outlook

Response: Privacy and outlook from adjoining properties will be similar to the previously approved development (DA-386/2012). This application seeks an additional 2 levels above the height of the adjoining properties. Overlooking and privacy impacts are considered to be generally the same as the approved development. Similar conditions are recommended

with regard to the placement of privacy screens and vegetation as the previous approval for the site.

Issue: Non compliant floor to ceiling heights

Response: The floor to ceiling heights were endorsed in the previous approval for the site, and therefore it was not revisited as a part of this assessment.

Issue: No space for planting shrubs/trees

Response: The provision of landscaping for the development is considered acceptable.

2.5 SECTION 79C(1)(E) – PUBLIC INTEREST

For the reasons outlined in this report, it is considered that the proposal is not in the public interest.

3. REFERRALS

The application was referred to the following internal departments of Council and conditions of consent were recommended should the application be approved. Advice provided was similar to that given for the approved scheme under DA-386/2012;

- Environmental Health
- Technical Services
- Land Information Officer
- Urban Design Officer
- Waste and Recycling Officer
- Tree Management Officer

4. SUMMARY

The proposal the subject of this development application can be summarised as:

- the same development as that previously approved (DA-386/2012);
- plus the modifications proposed under the undetermined section 96 application (DA 386/2012/A);
- plus the addition of two extra levels on top of the approved building.

Consequently this application is for a much larger building than that previously assessed and approved by the JRPP - the new proposal exceeds both the height and FSR standards by 10.5m and 1054sqm respectively.

Because a development consent for an almost identical building exists (and works have commenced), this report has primarily focused on the impacts of providing the 2 additional levels. It is unarguable that there are additional impacts and the relevant consideration is whether these additional impacts are acceptable having proper regard to the applicable development standards and controls.

The applicant has sought to justify the variation on the basis of the provision of a public benefit by way of the affordable housing incentive under WLEP (clause 4.4B). Clause 4.4B only provides for a variation to the maximum FSR – not the maximum height standard. Had this been the intention of the clause, it would have contained some degree of dispensation to the height standard as well as the FSR standard. This exclusion suggests that the degree of public benefit from the amount of affordable housing should generally be commensurate with the impacts of a building that compiles with the height standard.

So whilst a “fatter” building can be dealt with under clause 4.4B alone, a “taller” building (one that exceeds the height standard in the LEP) cannot be determined via clause 4.4B. It requires an additional assessment pursuant to clause 4.6 and therefore there is a higher threshold in terms of what may or may not be acceptable.

There has been acknowledgement by the Council that developments may seek FSR variations by way of a “taller” building and also that the community might consider that the degree of public benefit provided under clause 4.4B may be inadequate when considered against the additional impact caused by a taller building. This is evidenced by the adoption by the Council of an interim VPA Policy (see attachment) that sets out relevant principles and methodologies relating to planning agreements. This policy recognises that where an exceedance of a development standard causes greater impacts, the public benefit should be greater (the policy generally provides for a 50/50 sharing of the net benefit between developer and public).

Whilst both the LEP incentive clause (4.4B) and the VPA policy are both relatively new, there have been developments in Bondi Junction where they have been utilised.

Clause 4.4B

- 570-588 Oxford Street, Bondi Junction - Lindsay Bennelong Development.
 - 15% additional FSR. .
 - Variations sought pursuant to clause 4.4B of WLEP
 - Generally complied with maximum height standard (small variation under cl. 4.6)
 - Building was slightly “fatter”.
 - Public benefit comprised the provision of some units for affordable housing for three (3) years only. Value equates to approximately 10% of the net value of additional floor space

VPA Policy

- 241-247 Oxford Street, Bondi Junction – Leighton Property P/L.
 - 15% additional FSR and two additional levels (approx 10m) above maximum height standard.
 - Variations sought pursuant to clause 4.6 of WLEP and VPA Policy
 - Approval incorporated a VPA in accordance with the Council’s VPA Policy.
 - Building was “taller”
 - Public benefit comprised the provision of a monetary contribution for various public place improvements in the Bondi Junction area. Value of monetary contribution equates to approximately 50% of the net value of the extra two levels.

Whilst the number of applications of the two methodologies is only small, the principles and outcomes have been applied in a consistent manner that has provided both applicants and the community with a transparent assessment process. It is therefore considered in the public interest that this methodology be consistently applied.

Having regard to the issues raised in this assessment report, the application is recommended for refusal.

Should the application be approved by the panel, the previous Development Application (DA-386/2012) should be surrendered.

5. RECOMMENDATION TO THE JOINT REGIONAL PLANNING PANEL

That the Development Application be **REFUSED** by the Sydney East Joint Regional Planning Panel for the following reasons:

APPENDIX A – REASONS FOR REFUSAL

1. The proposed development exceeds the maximum height limit of 60m under clause 4.3 of Waverley LEP 2012 and results in unsatisfactory amenity impacts including overshadowing of additional properties and view loss from adjoining properties. The written justification provided under cl.4.6 fails to adequately address the matters required to be demonstrated pursuant to cl.4.6(3) and does not provide sufficient justification that the proposal will be in the public interest contrary to cl.4.6(4)(a)(ii),
2. The proposed development exceeds the maximum number of storeys (16) permitted under Part E1 of Waverley DCP 2012.
3. The proposal is not in the public interest as it will result in a significant exceedance of the height standard and the floor space ratio standard and such exceedance will result in additional impacts to private and public space. These standards have only been varied with respect to development proposals that have provided a commensurate public benefit. The subject development does not provide a commensurate public benefit.
4. A detailed Environmental Site Assessment (DESA Stage 2), prepared in accordance with the NSW EPA 'Guidelines for Consultants reporting on Contaminated Sites' and Planning NSW Guidelines 'Managing Land Contamination Planning Guidelines' has not been provided to Council to demonstrate that the site is suitable or can be made suitable for the proposed use contrary to Clause (7) of SEPP 55 Remediation of Land and 79C(1)(C) of the Environmental Planning and Assessment Act 1979.
5. The proposed development does not comply with *Principle 10: Aesthetics* of SEPP 65 and cl. 1.13 *Design Excellence* and cl. 1.14 *Building Elevations* set out in Part E1 of WDCP. In this regard, 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 is required to improve the design quality which is the desired future character of the Bondi Junction Centre.
6. The proposed development has car parking above street level, contrary to Clause 1.24.4, of Part E1 of the Waverley Development Control Plan 2012, failing to provide usable floor space within the podium level of the building.
7. The proposal is not in the public interest contrary to Section 79C(1)(e) Environmental Planning and Assessment Act 1979.

Report Prepared by:

Beth Matlawski

**Senior Development Assessment
Planner**

Reviewed by:

Mitchell Reid

**Divisional Manager
Development Assessment**

Should the panel recommend approval of the application, draft conditions are attached in Appendix B.

APPENDIX B – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans (Project No. 12-133) prepared by 'Dickson Rothschild' Architect;

- (i) DA-000, drawing list, revision 1, dated 15.11.13;
DA-001, development summary sheet, revision 1 dated 15.11.13;
DA-101, site plan, revision 1, dated 15.11.13;
DA-102, site analysis plan, revision 1, dated 15.11.13;
DA-103, demolition plan, revision 1, dated 15.11.13;
DA-200, general floor plan basement 3, revision 1, dated 15.11.13;
DA-201, general floor plan basement 2, revision 1, dated 15.11.13;
DA-202, general floor plan basement 1, revision 1, dated 15.11.13;
DA-203, general floor plan level 1, revision 1, dated 15.11.13;
DA-204, general floor plan level 2, revision 1, dated 15.11.13;
DA-205, general floor plan level 3, revision 1, dated 15.11.13;
DA-206, general floor plan level 4, revision 1, dated 15.11.13;
DA-207, general floor plan level 5, revision 1, dated 15.11.13;
DA-208, general floor plan level 6-14, revision 1, dated 15.11.13;
DA-209, general floor plan level 15, revision 1, dated 15.11.13;
DA-210, general floor plan level 16, revision 1, dated 15.11.13;
DA-211, general floor plan level 17-18, revision 1, dated 15.11.13;
DA-212, general floor plan level 19-20, revision 1, dated 15.11.13;
DA-213, general floor plan, level 21, revision 1, dated 15.11.13;
DA-214, general floor plan, level 22, revision 1, dated 15.11.13;
DA-215, general floor plan, roof, revision 1, dated 15.11.13;
DA-300, section AA, revision 1, dated 15.11.13;
DA-301, section BB, revision 1, dated 15.11.13;
DA-302, context site section CC & DD, revision 1, dated 15.11.13;
DA-400, elevation north, revision 1, dated 15.11.13;
DA-401, elevation south, revision 1, dated 15.11.13;
DA-402, elevation west, revision 1, dated 15.11.13;
DA-403, elevation east, revision 1, dated 15.11.13;
DA-730, materials and finishes schedule, revision 1, dated 15.11.13;
DA-750, adaptable units, revision 1, dated 15.11.13;
DA-910-916, perspective drawings, revision 1, dated 15.11.13;
(the above plans were all received by Council and date stamped on 10 December 2013)
- (ii) DA-700, typical floor plan, level 6-14 facade detail plan, revision 1 dated 27.02.14;
DA-701, levels 10-15 adjacent building facade detail, revision 1, dated 27.02.14;
DA-702, levels 4-7 boundary detail, revision 1, dated 27.02.14;
DA-703, levels 8-10 and 11-15, boundary detail, dated 27.02.14;
DA-704, section detail, 3m setback dedication, dated 27.02.14;
(the above plans were all received by Council and date stamped on 3 March 2014)

- (b) Landscape Plan No. 102 revision J, 501 revision F and C102 revision A, of Job No. SS12-2494 prepared by 'Site Image Landscape Architects', all dated 16.09.2013, and received by Council on 10 December 2013;
- (c) Traffic Impact Assessment prepared by 'Transport and Traffic Planning Associates' dated December 2013 (Rev f), Reference 12171 and received by Council on 10 December 2013;
- (d) Stormwater Plan and Details, Drawing Nos SW-17 and SW-18 (Rev A) prepared by 'Harris Page & Associates' dated 19.12.12 and received to Council on date 10 December 2013;
- (e) Preliminary Environmental Site Assessment, Ref: E26227Krpt dated December 2012 and received to Council on date 10 December 2013,
- (f) Noise Impact Assessment, Project No 2013001/1709A/R0/BW prepared by 'Acoustic Logic' dated 17.09.2013 and received by Council on date 10 December 2013;
- (g) BASIX Certificate No. 460439M_02 dated 6 December 2013, and received by Council on 10 December 2013;
- (h) BCA Assessment Report, Ref: 2012/0649 R2.1, prepared by 'Steve Watson & Partners' dated September 2013 and accompanying letter from Les Palma dated 14 November 2013, both received by Council on date 10 December 2013;
- (i) Arboricultural Impact Assessment Report, Project No: 253-255/OX/12/AIA/A, (Rev A) prepared by 'Tree iQ' dated 1 August 2012 and received by Council on 10 December 2013;
- (j) Pedestrian Wind Environment Statement, Ref: WA529-05F02(REV2)-WE REPORT prepared by 'Windtech' dated 2 September 2013 and letter (Doc Ref: WA529-05F03(rev3) - Memo dated 11 November 2013 and received by Council on 10 December 2013;
- (k) Solar Light Reflectivity Analysis, Ref: WA529-03F03(REV2)-SR REPORT prepared by 'Windtech' dated 11 November 2013 and received by Council on 10 December 2013;
- (l) Construction Environmental Management Plan prepared by 'Legacy Property', undated and received by Council on 10 December 2013;
- (m) Schedule of external finishes board received by Council on 10 December 2013; and
- (n) Waste Management Plan prepared by 'Elephants Foot recycling solutions' revision C, dated November 2013 and received by Council on 10 December 2013.
- (o) Geotechnical Report Ref: 22917SB rpt prepared by JK Geotechnics dated 2 May 2014, and received by Council on 7 May 2014.

Except where amended by the following conditions of consent.

2. SURRENDER OF DEVELOPMENT CONSENT

Development Consent No. DA-386/2012 for demolition of existing buildings and construction of a mixed use 19 level development containing 94 residential units, ground level retail and basement level parking approved by the Joint Regional Planning Panel on 13 June 2013 is to be surrendered prior to the issue of a Construction Certificate.

3. 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.

4. SITE CONTAMINATION

Prior to the issue of the relevant 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.

5. *Affordable Housing Incentive*

(a) For the purposes of this condition:

“affordable housing” has the same meaning that it has in the Environmental Planning and Assessment Act 1979; and

a “household” as referred to in the definition of “affordable housing” is taken to be a very low income household, low income household or moderate income household if the household:

- (i) has a gross income that is less than 120 per cent of the median household income for the time being for the Sydney Statistical Division (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or*
- (ii) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.*

(b) Pursuant to clause 4.4B(3) of the Waverley Local Environmental Plan 2012 the gross floor area of the development must not exceed 8,079.9sqm which includes an affordable housing incentive of 526.95sqm.

(c) Pursuant to clause 4.4B(4) of the Waverley Local Environmental Plan 2012 the dwelling(s) numbered 1901, 1902, 1903, 1904, 1905, 2001, 2003, and 2005 on the approved plans (which have a gross floor area of 526.95sqm being at least 50% of the affordable housing incentive of 1,053.9sqm) must be used for the purpose of providing affordable housing in the development and for at least 3 years from the date of issue of the occupation certificate for the development such dwelling(s) will be made available for rent as affordable housing and will be managed by a registered community housing provider endorsed by Waverley Council.

(d) In accordance with clause 4.4B(4)(c) of Waverley Local Environmental Plan 2012 a restriction will be registered, before the date of the issue of any occupation certificate, against the title of the property on which the development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in condition 5(c) are met.

6. 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 are 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.

The amendments shall be submitted for the approval and satisfaction of Council prior to the lodgement of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

7. COMMUNAL OPEN SPACE

A double height space (ie two storey void) shall be created for the entire communal open space area located on level 4 to improve the amenity, viability and functionality of this area.

The amendments shall be submitted for the approval and satisfaction of Council prior to the lodgement of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

8. 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.

9. 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.

10. BOUNDARY LEVELS

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

11. 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.

12. 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.

The amendments shall be submitted for the approval and satisfaction of Council prior to the lodgement of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

13. 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 4 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 15 balcony of unit 15.01 (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.

The amendments shall be submitted for the approval and satisfaction of Council prior to the lodgement of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

14. PROVISION OF PUBLIC ART

Confirmation of the provision of public art to the development is required to a value of \$40,000. In this regard, it is recommended the applicant refer to Council's 'Public Art in the Private Domain' manual and Public Art Committee.

15. 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: 6m³
- ii. One bedroom apartments: 6m³
- iii. Two bedroom apartments: 8 m³
- iv. Three plus bedroom apartments: 10 m³

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

16. 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 the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

17. GENERAL MODIFICATIONS – PARKING

The proposal shall be amended as follows:

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

- i. 13 residential visitor spaces;
- ii. 4 retail spaces;
- iii. 1 car share space
- iv. *71 residential spaces;
- v. Maximum of 89 spaces overall.

- (b) *No car parking is permitted at level 2 of the building as it is above street level and contrary to Part E1 of the Waverley DCP 2012. Should these car parking spaces not be able to be provided within the basement levels, these 7 spaces should be deducted from the number of residential car space spaces, which should be reverted to 64 car spaces.

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

- (d) 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 the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

18. 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) Eleven (11) adaptable units are to be provided and are to be spread throughout the development (ie. not clustered) 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 the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

19. 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 the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

20. 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.

21. 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.

22. 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.

23. 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 of Council.

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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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).

32. 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.

33. 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.

34. 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.

35. 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.

36. SEPARATE APPLICATION FOR STRATA SUBDIVISION

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

37. 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.

38. 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.

39. 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.

40. WASTE MANAGEMENT

(a) Waste is to be handled with and disposed of in accordance with the approved Site Waste and Recycling Management Plan (SWRMP), prepared by Elephants Foot Recycling Solutions dated 13 November 2013.

(b) The development must have a bin storage point for a minimum 7 x 660L MGBs for general waste collected weekly, 13 x 240L MGBs for recyclables collected weekly, 13 x 240L MGBs for paper and cardboard collected weekly, 1 x 240L MGB for garden organics

collected fortnightly with additional space available for an extra 3 x 240L MGB for paper/cardboard and 3 x 240L MGB for recyclables if required.

- (c) The residential and commercial waste storage areas must be separated.
- (d) The waste and recycling storage areas must be bunded to the sewer and be equipped with a supply of hot and cold water mixed through a centralised mixing valve with a hose cock.
- (e) The waste and recycling storage areas must be able to accommodate all bins, with all bins simultaneously accessible.
- (f) The waste and recycling storage rooms must be built to meet all design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 in the Waverley Council Development Control Plan.
- (g) The development must have a room or caged area with a minimum volume 4m³ available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up
- (h) The development must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area.
- (i) A waste and recycling compartment/area is required on each floor with sufficient capacity to store a minimum of 1-2 day's volume of waste and recycling likely to be generated on that floor.
- (j) Composting facilities which meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan must be provided at this development.
- (k) Should the waste generated from the commercial premises contain 20% or more food waste, a daily waste collection will be required.
- (l) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (m) Separate space must be allocated for the storage of liquid wastes and oils. The liquid waste storage area must be undercover, bunded and drained to a grease trap.
- (n) Liquid waste from grease traps must only be removed by licensed contractors approved by Sydney Water and NSW EPA.
- (o) Noise and odour generated from the commercial component of the development must not impact on adjoining properties.
- (p) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of commercial waste and recycling.
- (q) Should a collection vehicle be required to drive onto the property to collect waste and recycling bins, the site must be designed to allow collection vehicles to enter and exit the property in a forward direction and have adequate vehicle clearance. In addition, all access roads and driveways must comply with BCA, AS and Annexure B1-3 in the Waverley Development Control Plan 2012.

- (r) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager and cleaners.
- (s) Clear and easy to signs identifying the different MGBs and where the MGBs should be stored in the storage area(s) must be displayed.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

41. 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.

42. 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.

43. 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.

44. 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 the relevant Construction Certificate.

45. 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) All tree protection specifications for tree protection of Tree 1 – *Eucalyptus botryoides* listed in Appendix 4 and 5 of the Arboricultural Impact Assessment Report, Project No: 253-255/OX/12/AIA/A, (Rev A) prepared by 'Tree iQ' dated 1 August 2012 and received by Council on 10 December 2013 are to be implemented for tree protection.
- (b) The recommendation for removal of Tree 2 – *Grevillea robusta* in Arboricultural Impact Assessment Report, Project No: 253-255/OX/12/AIA/A, (Rev A) prepared by 'Tree iQ'

dated 1 August 2012 and received by Council on 10 December 2013 is acceptable and removal should be as per the recommendations of that report.

- (c) Replacement trees are to be planted on the eastern and western boundaries of the footpath adjacent to the rear of the kerb as shown on the preliminary landscape plan (SS12-2494) as drawn by Site Image. The trees are to be *Magnolia grandiflora* and must be a minimum pot size of 400 litres. The trees are to be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip.
- (d) The trees are to be sourced prior to the commencement of demolition and the invoice is to be submitted with the construction certificate.
- (e) A consulting arborist is to submit specifications and design for a tree pit with the construction certificate for Council approval. The design is to include measures to minimise tree root conflict with any adjacent services/infrastructure. Installation of a tree guard and tree grille (Derwent - available from Arborgreen) installed to manufacturer's specifications.
- (f) 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 existing and new trees. This awning modification is to be shown on all submitted plans.
- (g) The existing tree stump on the footpath is to be stumpground to below ground level to allow for paving and infrastructure works.
- (h) 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.
- (i) A supervising arborist (minimum Australian Qualification Framework Level 5) is to be engaged prior to any demolition or works on site and must
 - 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.
 - be present during any works within the tree protection zone of trees marked for retention and;
 - 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
 - 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 the relevant Construction Certificate.

46. LANDSCAPING BOND

A bond of \$20,000 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 the relevant 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.

47. LANDSCAPED SLABS

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

48. 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.

49. 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 the relevant Construction Certificate for the development.

50. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in Sections 4.3 & 5 of the acoustic report No 2013001/1709A/R0/BW prepared by 'Acoustic Logic' dated 17 September 2013 and received by Council on date 10 December 2013 shall be implemented.

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.

51. 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 relevant Construction Certificate.

52. 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.

53. 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 the relevant Construction Certificate and to be the Principle Certifying Authority.

54. ESSENTIAL SERVICES - NEW BUILDING

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for the relevant 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.

55. 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 relevant 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.

56. 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 the relevant 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.

57. 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 the relevant 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 relevant Construction Certificate.

58. 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 the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

59. 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 the relevant 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.

60. 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, Waverley DCP 2012 prior to the issue of the relevant 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.

61. 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 the relevant Construction Certificate.

62. STORMWATER MANAGEMENT

Stormwater drawings are to be submitted in accordance with the Waverley Development Control Plan 2012, Part B and the Waverley Council Water Management Technical Guidelines to the satisfaction of Council's Divisional Manager Technical Services prior to the issue of a Construction Certificate.

To accompany the drawings, certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Waverley Council Water Management Technical Guidelines.

63. 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 the relevant Construction Certificate.

64. 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 the relevant 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 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.

65. BICYCLE PARKING

A total of 113 bicycle parking spaces are to be provided and shall be physically separated and signposted into 101 residential and 10 visitor and 2 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 relevant Construction Certificate.

66. 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 the relevant Construction certificate.

67. VISITOR AND RETAIL CAR PARKING

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

68. 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 relevant Construction Certificate.

69. 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 relevant Construction Certificate.

70. 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 relevant Construction Certificate.

71. 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.

72. 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.

73. 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 relevant 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*.

74. 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 relevant 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.

75. 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 relevant Construction Certificate.

76. 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 (2 copies to be submitted). 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

77. 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.

78. STREETSCAPE WORKS - BONDI JUNCTION / LOCAL VILLAGE CENTRES

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

79. 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.

80. 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.

81. 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.

82. 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.

83. 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.

84. 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.

85. 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.

86. 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".

87. TOILET FACILITIES

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

88. 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.

89. 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.

90. 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.

91. 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.

92. 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.

93. 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).

94. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

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

95. 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.

96. 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.

97. 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.

98. 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.

99. 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.

100. 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.

101. 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.

102. 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.

103. 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.

104. 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.

105. 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.

106. 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.

107. 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.

108. 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).

109. 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.

110. 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.

111. 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.

112. IN-SINK WASTE DISPOSAL SYSTEMS

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

113. 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.

114. 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.

115. 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).

116. 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.

117. 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.

118. 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.

119. 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.

120. 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.

121. 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.

122. 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.

123. 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.

124. 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.

125. 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.

126. 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.

127. 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.

128. 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.

129. 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

130. 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 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.

131. 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.

132. ALLOCATION 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.

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 development is to be numbered using sub addressing. In this regard, the following shall apply when the premises is numbered:

- The floor/level number will represent the first number of the sub address and the last two digits in the sub address shall be unique on each level.
- For clarity, a zero will be interposed in the number of the first nine sub address levels ie level 3 unit 7 = 307.
- Commercial premises will also be identified with an address type ie Shop 101, Office 202 etc

Council must be notified of the corresponding unit/shop/office numbers to lot numbers and 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.

133. 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.

134. PARKING PERMITS

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

135. 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.

136. 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.

137. 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.

138. 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.

139. SLIP TESTS OF COMMON AREAS

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

140. 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.

141. 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.

142. 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.

143. 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.

144. 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*.

145. 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.

146. 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.

147. 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.

148. 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.