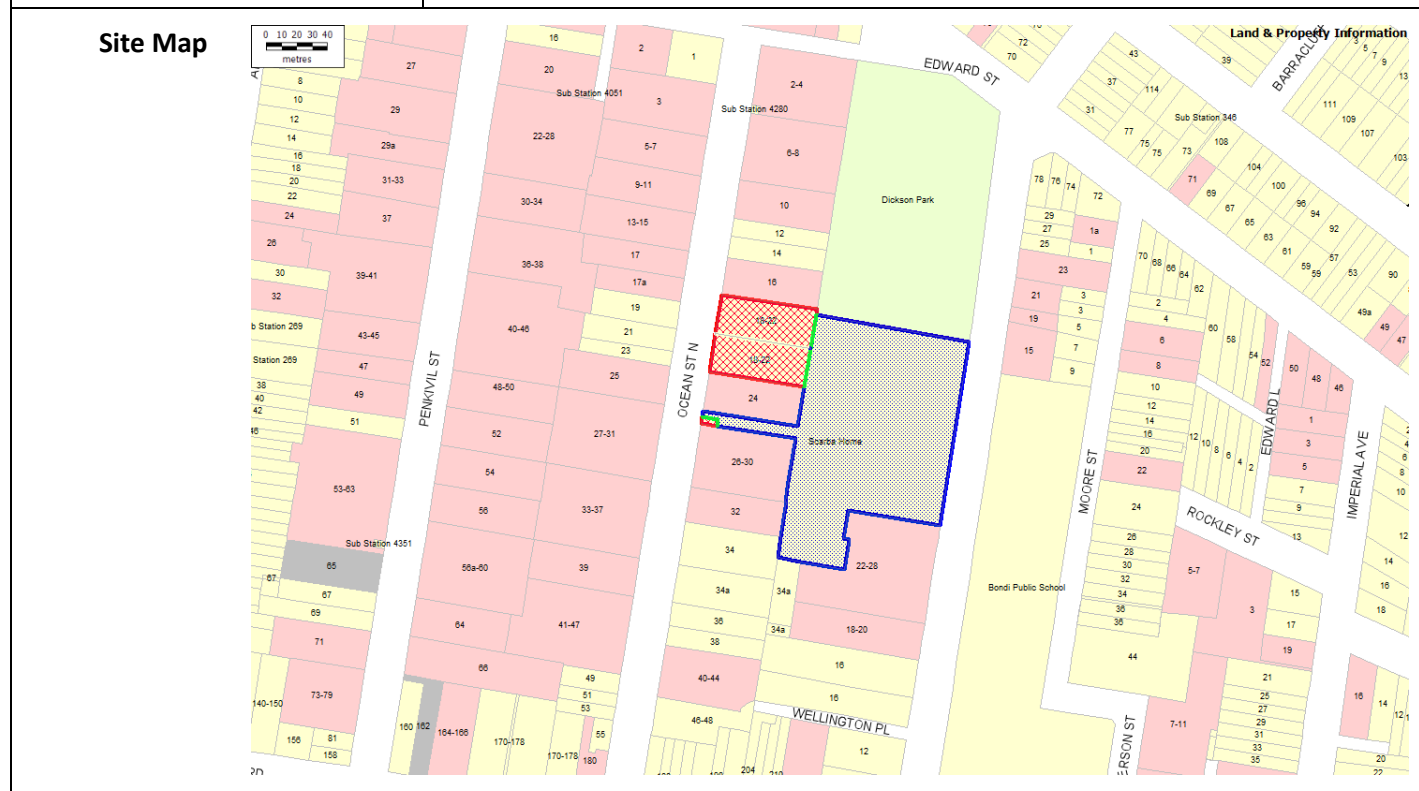




## Report to the Joint Regional Planning Panel

<b>Application number</b>	DA-203/2014
<b>Site address</b>	30 Wellington Street and 18-22 Ocean Street, Bondi
<b>Proposal</b>	Demolition of existing structures and construction of five residential flat buildings, including basement parking and retention of the heritage listed Scarba House
<b>Date of lodgement</b>	16 May 2014 Amended plans received 21 October 2014
<b>Owner / Applicant</b>	Mirvac Projects Pty Limited
<b>Submissions</b>	Original scheme: 82 submissions Amended scheme: 32 submissions
<b>Cost of works</b>	\$81,265,420
<b>Issues</b>	Height, heritage conservation, transport and parking, excavation, setbacks, building separation, private open space, overshadowing, views and view sharing, visual privacy and security.
<b>Recommendation</b>	That the application be granted a DEFERRED COMMENCEMENT



## **The consent authority for this development application is the Joint Regional Planning Panel – Sydney East Region (JRPP).**

### **1. PREAMBLE**

#### **1.1 EXECUTIVE SUMMARY**

On 16 May 2014, Council received a development application (DA-203/2014) from Mirvac Projects Pty Ltd for the demolition of existing structures on the site and construction of five residential flat buildings, including basement parking and retention of the heritage listed Scarba House at 30 Wellington Street and 18-22 Ocean Street, Bondi.

The development application is required to be determined by the Sydney East Joint Regional Planning Panel ('the JRPP'), as the cost of works for the development is over \$20million (estimated cost is \$81,265,420).

The initial proposal was deferred to address a number of matters, generally requiring a reduction in floor space ratio (FSR) on the site overall, reduction in the bulk and scale of Building A on Ocean Street and Buildings C and D on Wellington Street, increased car parking, modification to vehicular access on both Ocean Street and Wellington Street and improved internal amenity. Amended plans, largely addressing these matters, were provided to Council on 21 October 2014.

All five buildings comply with the height controls of Waverley Local Environmental Plan 2012 ('the LEP') with the exception of Building C on Wellington Street where only a part of the roof plant exceeds the maximum height. The Floor Space Ratio (FSR) of the development has been reduced to 1.5:1 which is compliant with the LEP control applicable to the site.

The amended proposal generally complies with relevant DCP requirements and non-compliances with the controls are considered to be either minor, not unreasonable given the context of the site or resolvable by condition. View sharing and overshadowing of adjoining properties has been assessed and is considered reasonable based on the LEP height and FSR provisions and controls of the DCP as well as the Planning Principles of the LEC. Whilst the previous LEC approval is not directly a relevant consideration, the location, height and bulk of the current proposal is not dissimilar to the previous approval.

The proposal will provide two basement car parks linked via a 'single lane link' between Buildings A and D (underground). The car park will provide 221 car spaces including 173 resident spaces, 45 visitor spaces and 3 car share spaces. The number of resident spaces proposed exceeds the maximum permitted by the DCP (Amendment 2). However, Council is in the process of reviewing the parking controls of the DCP and the proposal will not exceed the proposed new (draft) maximum rates. Although the draft DCP amendment has no planning weight and does not technically apply to the subject development, given the degree of public concern regarding the parking provision and the lack of on-street parking in the area, the higher parking rate is considered acceptable in this instance and is supported.

The proposal is considered to be appropriate to the site and impacts are considered reasonable having regard to the applicable controls. The provision of a semi-public park central to the site, links to Dickson Park for private and public use, the retention (and future restoration as separate future DA) of heritage listed Scarba House, increased onsite parking provision and the retention of significant trees provides a public benefit to the community.

Both the original and amended plans have been notified extensively. During the initial notification and exhibition period, 82 submissions and a Councillor submission were received. After notification of the amended plans, 31 submissions were received. The issues raised in the submissions generally relate to traffic and inadequate on-site parking, overshadowing and light, bulk and scale, loss of views/vistas and outlook, loss of privacy and overlooking. The matters raised do not warrant refusal of the application given the high density zoning and relevant controls for the subject site.

The site previously had the benefit of a development consent (DA 268/2008) approved by the Land and Environment Court on 10 May 2010 (applicant being the Benevolent Society of NSW) for a Seniors Living development. This consent remains valid (lapses 10 May 2015). Whilst the terms of this consent are not strictly a relevant consideration, the building heights and location for the current application are not dissimilar to this previous consent.

The subject development application is recommended for a Deferred Commencement consent.

## **1.2 SITE AND SURROUNDING LOCALITY**

The development site is identified as Lots 3 and 4 of DP 1190396, known as 30 Wellington Street and Lots 1 and 2 of DP 1190396, known as 18-22 Ocean Street, Bondi.

The site is located between Ocean Street and Wellington Street, north of their intersections with Bondi Road. The site is irregular in shape with a predominant frontage to Ocean Street of 40.23 metres, a second minor frontage to Ocean Street of 6.69 metres, a frontage to Wellington Street of 93.27 metres and an overall site area of 11,167m<sup>2</sup>. The site falls from its southern to northern boundary approximately 4.5m and has a lesser fall of approximately 1.2m west to east.

Currently existing on the site is the heritage listed two storey Scarba House towards the north eastern corner of the site, a number of one and two storey buildings towards the south and eastern boundaries, the part two, part three storey Chapman House and a single storey former child care centre in the north western corner. These buildings are currently vacant.

The site is adjoined by a part five, part six storey residential flat building (No. 16 Ocean St) and Dickson Park on its most northern boundary. Adjoining the site onto Ocean Street are a four storey residential flat building (No. 24 Ocean St), an eight storey residential flat building (No. 26-30 Ocean St), a four storey residential flat building (No. 32 Ocean St) and a single storey dwelling (No. 34 Ocean St). Adjoining the site to its south on Wellington Street is a nine storey residential flat building (No. 22-28 Wellington St).

To the east of the site opposite Wellington Street are residential flat buildings, two and three storeys in height and Bondi Public School. To the west of the site opposite Ocean Street is a variety of residential accommodation from single storey semi-detached dwellings to nine storey residential flat buildings.

A proposed site plan, indicating the proposed Buildings and surrounding context is provided in Figure 1 below.

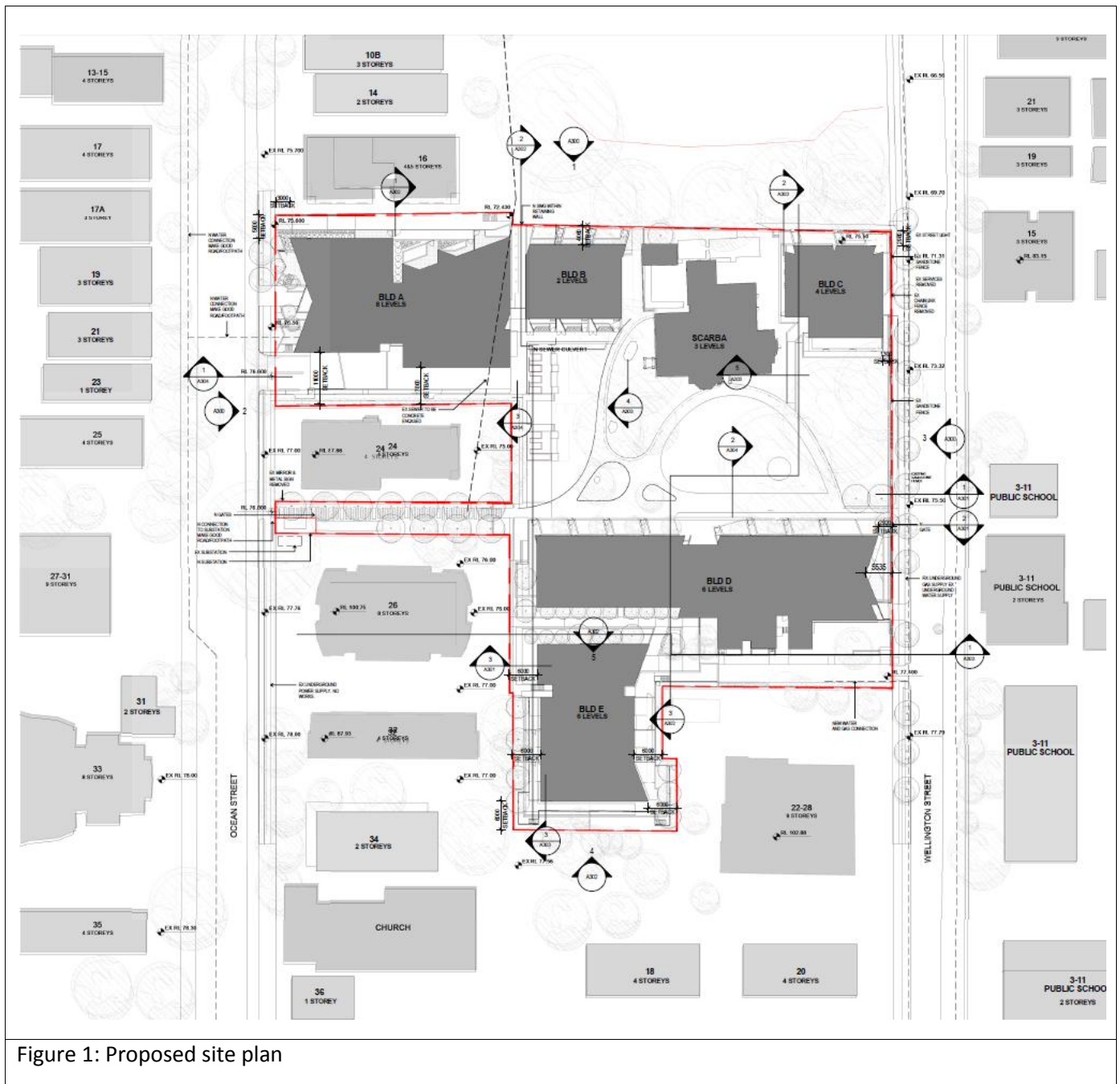


Figure 1: Proposed site plan





Photo 1: Site viewed from Ocean Street (Chapman House on left)



Photo 2: Second minor frontage of subject site to Ocean St, proposed as through site link (adjacent to Fig tree)





Photo 3: Scarba House, listed as a heritage item



Photo 4: Wellington Street frontage of subject site

### 1.3 PROPOSAL

The proposal seeks consent for the demolition of the existing structures on the site, with the exception of the heritage-listed Scarba House, and the construction of five residential flat buildings (refer to Figure 1 for proposed site plan).

The development overall will comprise of the following:

- 191 residential units
- The retention of Scarba House as a separate dwelling
- 221 parking spaces
- Two 'through-site links' – one on the northern boundary leading from Ocean Street to Dickson Park and one through the centre of the site providing access between Ocean Street to Wellington Street via parklands described below
- Retention of a park and significant trees in the forecourt of Scarba House for both private and public use.

The proposal contains five separate buildings containing a variety of one, two and three-bedroom units, three attached two-storey dwellings and a single dwelling in the form of the heritage listed Scarba House. The proposed development mix will comprise of the following:

- 83 x 1-bedroom units
- 85 x 2-bedroom units
- 22 x 3-bedroom units
- One dwelling (Scarba House).

The proposal will provide two car parks, one being beneath Building A and one being beneath the footprints of Building D and E. The car parks will both be two levels providing access and egress onto both Ocean Street and Wellington Street and will be linked via a 'single lane link' between Buildings A and D (underground). The link will utilise a traffic light system to allow two-way traffic flow between car parks.

The car park will provide 221 car spaces and will comprise of the following:

- 173 resident spaces (including 20 adaptable spaces)
- 45 visitor spaces
- Three car share spaces
- 40 motorcycle spaces
- One dedicated loading space (within car park under Building A).

The proposal will also provide 209 bicycle spaces throughout the development.

Each of the five buildings plus Scarba House within the subject development is summarised as follows:

#### **Building A:**

Building A will be located fronting Ocean Street on the parcel of land known as 18-22 Ocean Street (refer to Figure 2 below for photomontage). This building will be eight storeys with two levels of underground parking beneath. This building will be comprised of 65 units with a mixture of one, two and three bedroom units. Each unit will be provided with a private balcony or courtyard for those at the ground floor level.

This building will provide access for service/garbage trucks to a garbage truck loading area and associated bin holding area contained within the basement car park. The loading area will be provided with a turntable so that all rubbish bins may be collected from within the site and all trucks can enter and leave the site in a forward direction.

Along the northern boundary of Building A, the proposal will provide a 'through-site link' from Ocean Street to Dickson Park. This link will be accessible to the public during daylight hours providing direct access from Ocean Street.

A vegetable garden and green waste storage area will be provided to the rear of Building A for the use of the entire development.

***Building B:***

Building B, located to the west of Scarba House, will be comprised of three attached dwellings located to the rear of Building A fronting onto Dickson Park to the north. Each of these dwellings will be two-storeys in height and will be provided with courtyards on the northern side each with direct gated access to Dickson Park. These dwellings will be provided with three bedrooms located at the upper level and living areas at the lower level.

***Building C:***

Building C will be located to the east of Scarba House in the north-eastern corner of the site with frontage to both Wellington Street and Dickson Park. This building will be a part three and four storey building providing 12 units comprised of 11 x 2-bedroom units and 1 x 1-bedroom unit. This building will also have courtyards on the northern side fronting Dickson Park with direct gated access from these courtyards to the park.

A basement will be constructed under this building accessed from Wellington Street and providing a garbage room, plant and a lift to the upper levels. The provision of this access will require that an opening be made into the sandstone wall on Wellington Street.

***Building D:***

Building D will be located fronting Wellington Street running in an east-west direction (refer to Figure 3 for photomontage). The narrowest part of the building will front Wellington Street with the main length having frontage to, and overlooking, the Scarba House forecourt park.

The building will be six storeys containing 64 units with two levels of basement parking being provided beneath (footprint contained beneath Buildings D and E). Articulation to the built form will be provided via glazing through the centre of the building providing 'winter gardens' to the units within. Pedestrian access to Building E will be through a two-storey void under the centre of this building through to a shared private courtyard between the two buildings. The entrance to the void/passageway will be gated to prevent unrestricted access from the public (given that the forecourt park will be semi-public).

***Building E:***

Building E has no frontage to any street being located to the south of Building D orientated in a north-south direction. This building will be six storeys comprised of 46 units with the two level basement car park extending beneath. Direct pedestrian access will be provided from Wellington Street along the southern boundary of the site.



**Scarba House:**

The proposal seeks the retention of Scarba House, a heritage listed building along with the surrounding curtilage and significant trees that form part of its significance. The House is to be restored and utilised as a separate dwelling, however this will be subject to a future development application. Minor demolition of recent ad-hoc additions to the rear are sought only under this application.



Figure 2: Photomontage of amended scheme of Building A (Ocean Street frontage)



Figure 3: Photomontage of Building D (shown from park within the site)

## 1.4 RELEVANT HISTORY

### ***Benevolent Society of NSW:***

DA-268/2008 for the demolition of the existing buildings (excluding Scarba House) and construction of a seniors living residential care facility providing a total of 128 self contained seniors living dwellings, support services and basement parking with restoration and adaptive reuse of Scarba House was approved by the Land and Environment Court (LEC) on 10 May 2010.

The approval was for seniors living under the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) and involved:

- The demolition of all buildings on the site (Chapman House, Walter Cavill Village and Maurice O'Sullivan Child Care Centre) with the exception of Scarba House
- Conservation and restoration of Scarba House with the removal of later additions and the reinstatement of the verandah with the building to be used principally as meeting rooms with a library and ancillary space and the addition of a single storey meeting hall to the north east corner
- Construction of a four storey building with basement parking for eight vehicles and ancillary storage in the north east corner of the site (fronting Wellington Street and Dickson Park);
- Construction of a part four and part ten storey building within the north western section of the site (fronting Ocean Street) comprising of residential units along with a dementia day care centre and two levels of basement car parking for 52 vehicles
- Construction of a part five and part six storey L-shaped building within the south eastern section of the site (fronting Wellington Street) comprising of residential units, ground floor café, general store, beauty salon and exercise room, with one level of basement car parking for 50 vehicles
- Landscaping of the site with retention of certain existing trees on the site.

It appears that this consent will not be acted upon as the previous owners (the Benevolent Society of NSW) have sold the site to the current applicant.

### ***LEP Upgrade:***

When Council and the LEC were considering the previous application (detailed above) the land was zoned principally 5(a) *Special Uses – School* with part Zone No. 2(c2) Residential – *High Density* under Waverley Local Environmental Plan (LEP) 1996.

The LEP has since been upgraded and the site was rezoned having regard to the density of surrounding sites, the LEC approval and an urban design review commissioned by Council. The site is currently zoned R4 – *High Density Residential* under LEP 2012.

### ***Pre-Development Application (PD-5/2014):***

A Pre-Development Application for the demolition of existing structures and the construction of five residential flat buildings with basement parking was submitted to Council on 25 February 2014. Advice was provided regarding floor space ratio (FSR), height, bulk and scale, location of buildings, architecture and design and heritage matters.

### ***Subject Application (DA-203/2014):***

The subject development application was lodged with Council on 16 May 2014 and following initial assessment was deferred to address the following matters on 18 September 2014:

### 1. FSR and AFFORDABLE HOUSING:

*As indicated in your Pre-DA advice, due to the area of land occupied by the heritage item (Scarba House) and associated required curtilage, the maximum floor space ratio (FSR) may not be an achievable outcome and it is unlikely that additional FSR would be supported under clause 4.4B of Waverley Local Environmental Plan 2012 ('the LEP').*

*In support of the above comment it should be noted that whilst the overall site area is approximately 11,138m<sup>2</sup>, the actual 'developable area' of the site (ie the area that is not encumbered by the heritage item and required curtilage) is in the vicinity of 8,000m<sup>2</sup> and under Council's LEP (maximum FSR of 1.5:1), this would reasonably provide for buildings with a combined gross floor area (GFA) of approximately 12,000m<sup>2</sup> on that part of the site unencumbered by the heritage item/curtilage. The current proposal provides for buildings with a combined GFA of 17,733m<sup>2</sup>.*

*This position was outlined in our Pre-DA advice:*

*'It is relevant to note that both the AJ & C review and the Court approval provided a significant area of open space/non-built upon area in and around Scarba house (2,500 – 3,500m<sup>2</sup>) as well as building height/location having a high regard for view sharing and shadow impacts on neighbouring buildings and land.*

***Careful consideration is required regarding location, height and size of future buildings on this site. The existence of Scarba House and the requirement to maintain an adequate separation between this building, its landscape curtilage and the proposed development may mean that the maximum allowable FSR may not be achievable and it is also unlikely that additional gross floor area pursuant to clause 4.4B would be supported'.***

*When considering the above comments (developable area of approximately 8,000m<sup>2</sup>), the current proposal provides for an estimated FSR on the developable area of 2.2:1. Whilst this is an indicative appraisal of building bulk and not a conclusive assessment of acceptability or otherwise, it supports our assessment that the current scale of the development is excessive for this site.*

***To reduce the scale and associated impacts of the development, the following amendments are required:***

### 2. BUILDING A:

- a) *Building A presents to the Ocean Street as excessively bulky and out of scale and context with surrounding buildings. As required under the DCP, the building should be reduced in width to a maximum of 24 metres at the street front. This is to be achieved by deleting the 4 storey southern wing and increasing side setbacks by approximately 2.5m total, generally as follows:*
  - i. *Southern side setback to be 9.0m*
  - ii. *Northern side setback to be 6.35m*
- b) *To reduce the visual bulk impacts on adjoining buildings and to provide greater residential amenity to units within the subject building, the building should be split into two visually separate parts (indent inserted between front and back forms) allowing increased solar access and views/outlook for adjoining properties and improved internal amenity for units within Building A. This change is supported by Council's SEPP 65/Design Review Panel. This separation should result in a smaller building footprint.*
- c) *The design of the building which provides for 11 units per floor is considered excessive in terms of Residential Flat Design Code (RFDC) design principles. Additionally, the*

*building contains a large number of single aspect units with poor ventilation and solar access. Council's SEPP 65/Design Review Panel have indicated that these matters require resolution. This issue is demonstrated by the end units which have excessively long internal corridors. This is considered as a result of trying to have too many units accessed off a single core. These corridors would be dark and feel narrow, and would not provide a good sense of homecoming for future residents.*

- d) The through-site link providing access to Dickson Park adjacent to the northern boundary should be increased in width to a minimum 3m and designed to provide greater visual acknowledgement of its existence and availability to the public. Details of the entry treatment and ongoing management and maintenance should be submitted for Council's approval.*
- e) The street presentation of the loading/garbage truck dock to Ocean Street is to be improved and is to incorporate a less visually intrusive design. Alternative solutions with less impact should be investigated to help reduce the bulk of the building and improve its street presence.*
- f) Loss of public on-street parking spaces is to be minimised and in this regard the proposal shall be amended to provide a single entry for both residential and services vehicles and the service entry and turntable shall be provided below ground.*

### **3. SCARBA HOUSE:**

- a) Scarba House is an important heritage item and any development to this building and in its immediate vicinity should reflect its heritage significance. Comments provided by Council's Heritage Architect are summarised below:*
  - i. Visual links between Scarba House and Buildings D and E should be further improved.*
  - ii. All white exterior has no relationship to the original finishes of the building – investigate paint finishes and provide historically based colour scheme to the exterior.*
  - iii. The fabric of the initial 1850's Victorian Georgian residence should be expressed both externally and internally in any conservation restoration works to Scarba House.*
  - iv. The scale and proximity of the adjacent building to the east of Scarba House appears out of scale with the Victorian Italianate form of Scarba House. The rise of apartments closest to the original house should be deleted to provide a clear sightline along the eastern side of Scarba House to the Park beyond. In addition the southern elevation of the new building should be limited to a height matching that of the eave line to Scarba House.*
  - v. The proposed treatment of the boundary fence line would be improved by use of metal pickets rather than strip timber. These should provide a high degree of transparency and not be set at close spacing or with angled sight lines.*
  - vi. There is a need for a clear reading of the historic entry to the site and its retention as a principle entry to the site. New entry points should remain visually separate to the original gates and reflect the form and scale of the original entry.*
  - vii. Screen planting of the site from Dickson Park should be retained in order to limit impact of the works upon the public domain.*

### **4. BUILDING C:**

- a) The southern side of the building should provide a step down to three storeys (see comments above regarding the eaves line of Scarba House) that aligns more closely with the Court approved envelope.*



- b) *The three-storey element on the western side of the building should be deleted to provide greater separation with Scarba House and a stronger visual connection from the southern through site link and Scarba House garden area to Dickson Park beyond.*
- c) *Consideration should be given to the provision of a basement car park beneath Building C (as per Court approval).*

**5. BUILDING D:**

- a) *The northern elevation of this building should be amended/redesigned to reduce the façade length, overall building bulk and improve the visual appearance. This building currently presents as excessively long and bulky and the façade design has an institutional appearance. In order to achieve this, the following design changes should be considered:*
  - i. *Separate the single building into two elements with open space/landscaping between. This will reduce the buildings visual length and provide a clear visual connection between Scarba House, the garden area and the parklands. The communal courtyard between Buildings D and E will be a space with poor amenity and unlikely to be highly used. The infilling of part of this space to offset the separation of Building D may be acceptable subject to relevant amenity considerations to reduce bulk impacts upon adjoining properties to the west. However it is important that articulation of the western facade, through the use of increased setbacks or recesses or green walls, be incorporated into the design to reduce bulk impacts upon adjoining properties to the west.*
  - ii. *Increase the void at the ground level of Building D to at least two storeys and then indent the building from both the north and the south (indented form) to provide increased articulation.*

**6. BUILDING E:**

- a) *Decrease the size of this building by increasing east, west and south side setbacks to at least six metres to comply with the minimum provisions of Waverley Development Control Plan 2012 ('the DCP').*
- b) *Improve pedestrian entry access and sightlines from Wellington Street.*

**7. DICKSON PARK:**

- a) *Provide specific details of any proposed works to Dickson Park for further investigation and assessment.*

**8. ARCHITECTURAL RESOLUTION / DESIGN MODIFICATIONS / ADDITIONAL COMMENTS FROM SEPP 65 PANEL (MINOR AMENDMENTS):**

- a) *All foyers should be designed to receive natural daylight on all levels. These common spaces also improve light and cross ventilation opportunities for the apartments.*
- b) *The development incorporates an excessive number of single orientation units that would not benefit from cross ventilation or sun throughout the day. Building redesign should address this issue.*
- c) *Elevations are too schematic – the 'dynamic corners' are potentially dramatic, but also risk being overly aggressive. The rectangular north-eastern corner shows that a calmer aesthetic can still present a strong presence in the street. The elevations still need to be developed in line with site planning and massing changes set out previously in this letter.*
- d) *The southern boundary along Wellington Street should allow some more deep soil planting.*
- e) *Cross ventilation should be able to be maintained at night without compromising security. Consideration needs to be given to fanlights, windows or other ventilation options. Window operation should be indicated on the elevations.*

- f) *Ceiling fans should be provided throughout.*
- g) *An improved roof design with clerestory windows could be used to capture winter sun and provide added light and ventilation, particularly to service rooms and at entries.*
- h) *A reasonable percentage of kitchens, bathrooms and laundries should be able to have natural daylight and operable windows. Currently too many service rooms are internalised, given the scope to modulate the building footprints.*
- i) *Outdoor clothes drying areas for each dwelling.*
- j) *The roof terraces could have a positive landscape character. The lower roofs in particular which are heavily overlooked, should be planted.*
- k) *The substation should be relocated from the Ocean Street frontage to present a more inviting access to this pedestrian link.*
- l) *The proposed materials and finishes should be developed further to avoid expansive masonry painted finishes (particularly, the excessive use of white). Rather, there is a need for a durable and 'raw' material in the external façade that is not dependant on too-frequent maintenance / painted finishes.*
- m) *Window/door operability shall be detailed on plans.*

#### **9. TRAFFIC AND PARKING:**

- a) *The proposal provides insufficient visitor parking spaces. The parking provision within the DCP is a required amount (i.e. not a minimum or maximum). Additional parking to comply with the visitor parking provisions is required.*
- b) *A significant number of objections to this proposal cited inadequate on-site parking and impacts on the existing street parking area. The proposal currently provides substantially less than the maximum amount of parking allowed under the DCP. Having regard to the location of the site and the matters raised by surrounding property owners, additional residential parking on site is encouraged and would be supported.*
- c) *The car park design and layout should be amended to provide the relevant number of parking spaces (including resident parking, loading, visitor parking and associated services) for each individual building (Building A, C, D and E) under that specific building. In this regard, future residents of a particular building should be allocated parking directly beneath their building in the basement, rather than beneath an alternate building).*
- d) *A loading space shall be provided to the Wellington Street building (Building D) within the basement car park. Clearance heights at the entry to and within the loading space to comply with Australian Standards.*
- e) *The driveway off Wellington Street should be two-way operation with a median island on Wellington Street to limit vehicles to left in/left out.*
- f) *Vehicles should be able to exit/enter into both Wellington Street and Ocean Street access points, allowing for two way traffic (via traffic light signals or the like) in the basement tunnel link.*
- g) *All vehicular access gates to be shown and installed a sufficient distance inside the site so that vehicles waiting at the gate are fully within the site.*

#### **10. INADEQUATE DOCUMENTATION:**

- a) *Owners consent for removal of trees within 22-28 Wellington Street is required.*
- b) *It is noted that the Statement of Environmental Effects (SEE) refers to Contamination Reports and a Conservation Management Plan contained within the original Benevolent Society development application. However these reports have not been resubmitted under the current application. Please provide the relevant and updated reports as part of the current application. Council cannot simply take reports from one DA and transfer them to another (potential copyright issues).*

**In response to the above deferral matters, amended plans were received on 21 October 2014 that generally provided the following amendments:**

- The proposed gross floor area (GFA) has been reduced by 1029m<sup>2</sup> to 16,704m<sup>2</sup> providing a compliant Floor Space Ratio (FSR) of 1.5:1
- The amended proposal provides 14 fewer dwellings
- The amount of car parking has been increased to 221 spaces with an additional level of basement parking provided below Building A (Ocean Street). This includes an additional 35 visitor spaces.
- The basement car park from Wellington Street has been amended to provide access and egress to Wellington Street.
- **Building A** has been reduced in width at the street front to 24 metres by increasing side setbacks and in order to create a visual break in the building, an increased indent has been provided in the middle of Building A, which is glazed on both sides. The driveway has been reduced to double width with the servicing area being provided below ground within the basement car park rather than at grade.
- The height of **Building C** has been reduced to three storeys on the southern edge to be consistent with the eaves line of Scarba House. The three-storey part on the western side of the building has been increased to four-storeys however with a greater setback from Scarba House.
- Articulation is provided to **Building D** through the introduction of a glazed and recessed mid-section. Additionally a double height void has been created at ground level.
- The setbacks of **Building E** from side boundaries has been increased to six metres. An improved pedestrian entry from Wellington Street has been incorporated into the design.
- Minor design amendments to satisfy issues raised by the SEPP 65 Panel (discussed in detail later in this report).

## **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.

The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

#### **SEPP 32 – Urban Consolidation**

The relevant objective of SEPP 32 is to ensure that any redevelopment of urban land for multi-unit housing and related development will result in an increase in the availability of housing within a particular locality or a greater diversity of housing types within a particular locality to meet the demand generated by changing demographic and household needs.

The provisions of the SEPP are generally aimed at accommodating additional residential accommodation within urban areas with good infrastructure. The proposed development achieves this objective and is supported.

## SEPP 55 Remediation of Land

Clause 7 of the SEPP requires Council to consider whether land is contaminated. The site has historically been used for residential, educational (kindergarten and day care centre) and community purposes.

A Remedial Action Plan (RAP) by JBS&G Australia Pty Ltd was provided with the amended application. Previous investigations (including contamination reports for the Benevolent Society in 2008) identified lead impact in shallow soils with fragments of suspected and/or confirmed asbestos containing materials.

The preferred action is to excavate lead impacted materials and contaminating material and dispose off-site. The RAP provides methods for remediation and validation and sets out the safety and management controls to be implemented during the works.

The RAP makes the following statement:

*Subject to successful implementation of the measures detailed in this RAP and subject to the limitations in Section 12, it is considered that the identified lead impacted soil and bonded ACM fragments can be remediated appropriately, and the site can be made suitable for the proposed residential land use with minimal access to soil.*

A condition of Deferred Commencement is included within the recommendation requiring that a Site Audit Statement (SAS) prepared by a NSW Environment Protection Authority (EPA) accredited site auditor is to be submitted to Council certifying that the site is suitable for the intended use and that the conditions contained within the report shall be adhered to during construction.

Subject to the above, the application is considered to satisfactorily address the requirements of SEPP 55.

## SEPP 65 Design Quality of Residential Flat Development

The application is subject to the provisions of SEPP 65 which aims to improve the design quality of residential flat development in NSW and identifies 10 principles by which an application is to be assessed.

The original proposal was referred to the Joint Randwick/Waverley SEPP 65 Design Review Panel ('the Panel') who recommended a number of revisions briefly summarised in the deferral matters in Section 1.3 – 'Relevant History' of this report. Amended plans were received however these have not been referred to the Panel as they generally address the original concerns.

The comments of the Panel are provided below in full. Comments regarding the Pre-DA scheme are retained in normal text and comments regarding the original development application are shown in *italics*. A planning comment has also been provided discussing the amended plans in **bold**.

### 1. CONTEXT:

"The site is located in a high density band of urban housing that extends for a number of blocks on the northern side of Bondi Road, encompassing Wellington and Ocean Streets. This area has a number of positive characteristics that make it ideal for this more intense urban development:



- excellent public transport along Bondi Road, and via Bondi Junction Station by rail to wider Sydney
- an excellent array of shops and services along Bondi Road
- a level walk to Bondi Road, within a reasonably permeable block structure in a north south direction (the area would clearly benefit from improved east west connections through blocks)
- frontage to Dickson Park
- a location opposite Wellington Street public school
- proximity to other public places such as schools, churches and Council, and to clubs and Waverley Park
- proximity to Bondi, Tamarama and other beaches.

As a result of these attributes, the area has an established character of medium and high-rise urban housing, developed over many decades. Almost all the taller buildings follow the subdivision grain and are aligned as point towers or linear slabs with a long face to north. These taller buildings, too often undistinguished in their architectural qualities, read strongly on the ridge line when viewed from most of the Bondi / Rose Bay valley. The spaced alignment of towers allows reasonable solar access and view sharing. The spacing of the towers is acceptable where there is sufficient space for a mature landscape to develop between buildings.

The Panel strongly supports 2 new east-west through site public connections:

- Ocean Street to Wellington Street, along the accessway between the properties off Ocean Street.
- Ocean Street to Dickson Park, along the site's northern boundary, aligning with the site's boundary to the park.

These dedicated public ways would redress the current problem of unsatisfactory east-west connection and benefit the wider area. Appropriate permeability will encourage walking and cycling, and provide improved access between the streets, to the school and to Dickson Park.

The Panel strongly supports improved access and a generous interface to Dickson Park, as this would make the park much more accessible for nearby residents and provide safety through improved passive surveillance. Currently the park has a dead-end at its south-west corner, with little access or visibility. A new pedestrian connection to the west of Scarba House would be a significant improvement over the current situation. The Panel considers that there are many options for adding a ramp which would have little effect on the park. Further the removal of several casuarinas at the south end would open vistas and allow better sun.

*It is not clear from the drawings that the two east-west links are actually dedicated to the public:*

- *The northern link is not noted as being public, has no dimension, and shows a gate at the eastern end. Its edges and detail vary between the architectural and landscape plans. It should be at least 3 metres wide, and link directly and as seamlessly as possible to the park.*
- *The wider southern link has an intrusive substation blocking half its width, and is noted with a gate (note 1 on the landscape drawings- nothing on the architectural drawings). The private front yards tend to narrow its street to street sightline.*

*The Panel considers that these are first order issues, and the poor response in the submitted development application is disappointing and needs to be rectified. Issues of permeability, walkability and social inclusion, rather than the making of enclaves, are acute in Australian cities today, and this site should be making its fair contribution to improving Bondi for all.*

*Much recent urban design, health and social research has highlighted the problems of inward looking residential enclaves. Given the size and location of this site, any development must consider the street / block structure and the need for improved public access. The most walkable, safest, most permanent and durable connections are public streets. The applicant should refer to the recent UDAS publication on Subdivision, available from the NSW Department of Planning. See also the Medical Journal of Australia, December 2007 – The Way We Live In Our Cities – by Dr Anthony Capon. Jan Gehl has written and recently spoken also of the public and health benefits of city layouts and policies that improve the ability to walk and cycle about.*

The Panel considered that the site planning and heritage setting were potentially major positive aspects of the proposal. The retention of Scarba House in an improved landscape setting would be an exemplary outcome. Consideration should also be given to making the landscaped space in front of Scarba house a public space, which perhaps could be achieved through a Voluntary Planning Agreement (VPA).

*There is no information provided regarding the public status of this important landscaped space.*

Major urban schemes should always look to add to the public domain, to assist with their urban integration and improve permeability to equitably benefit the wider community.

The Panel noted that this proposal may serve as a model for future high density development in this part of Bondi. Therefore it is important that the site planning, street relationship and architectural design be well resolved, to act as a positive precedent”.

**Planning Comment (Amended Proposal):**

**Council has not sought dedication of the forecourt park or the through-site links to the public. Dickson Park is a public park located to the north of the site for public use and it is considered more appropriate that the forecourt park and links remain in private ownership as they are more likely to be appropriately maintained by a collection of strata bodies with a vested interest in their presentation. The proposal includes public use of the park and links during daylight hours and a condition to this effect is included in the ‘Recommendation’ to ensure it remains a semi-public space. This will ensure that the site is permeable, walkable and open to the public providing pedestrian movement through the site from Ocean Street to Wellington Street and the schools upon it. This aspect of the application is considered to be of great benefit to the local community whilst still being in the ownership (and ultimately being maintained by) the private owners of this land.**

**The amended plans are considered to adequately address Principle 1 of SEPP 65.**

2. **SCALE:**

“The Panel understands that the various heights proposed are compliant with Council’s new LEP, and makes the following comments regarding the proposal’s scale:

- Retaining the site's significant trees in a generous landscape space in front of Scarba House is a constant between schemes and is strongly supported by the Panel. The space is open to Wellington Street, and could become a valued public space through a VPA – *the Panel has not sighted any evidence of a VPA to that effect.*
- The site planning would be improved if it was based around a further series of smaller courtyard gardens and walkways. These private communal spaces could be part of the homecoming experience for residents, and could help articulate the major building masses. These spaces should be positive distinctive spaces, rather than the negative agenda of setbacks and screen planting – *the site plan has been improved in some places by the creation of such interstitial spaces, such as on the southern part of the site. However the framing of the spaces around Scarba House is less clear than previously.*
- The modulation of the three and four storey elements around Scarba House is generally well considered, though moving the row behind northward would give the House a little more space and could create a more decisive relationship to the park.  
*The clarity of the relationship to Scarba House that was a positive aspect of the pre-DA scheme has been clouded, both in plan and three dimensions. Rather than a group of buildings picking up on both the alignments and eaves heights of the historic house, now each new building appears to have an ad hoc relationship to the curtilage, in the process losing spatial coherence. The Panel strongly recommends that the previous idea of a parapet height matching the eaves (an additional storey could be added with a setback, matching the roof height of Scarba House) would be a much better approach. The 3 x 2 storey townhouses to its west lack appropriate scale and presence.*
- The Panel supports the increase to four storeys, on the similar small footprint of the building in the north-east corner (*Building C*). This would have no undue impact on the streetscape or Scarba House (given its well-considered placement). The base and street presence of this building could have a positive presence to the street at footpath level as well as the northern park frontage, and could increase activation and passive surveillance at street level.  
*The height of Building C has been increased to four storeys, which the Panel supports. However the building has an awkward plan relationship to Scarba House's east-facing bay window, and the new south elevation is overly solid and defensive – after all it opens to a major green space, and would enjoy views south along Wellington Street. The three storey section on the west side of this building should relate more strongly to Scarba House, or it might be better eliminated.*
- Manipulating the spaces and building volumes within the height controls would allow the architects to decrease the unnecessarily hefty masses of the two largest buildings on the site. This would better distribute the floor space, result in a range of less bulky buildings and could substantially improve residential amenity.
- The Panel reiterates that it does not support a large footprint, six storey, L-shaped building in the southern corner of the site. Splitting this building in two would reduce the excessive impact of unrelieved mass, bulk and overshadowing on neighbours. It should also allow replanning to avoid a building with far too many single orientation apartments. Changing the footprint should improve the microclimate around the building by providing permeability for cooling summer breezes and increasing northern winter sun access.  
*The architects have made a serious attempt to decrease the mass on the southern half of the site. The Panel believes splitting the previously L-shaped building into two (Buildings D and E) is a clear improvement. The Panel considers that the undercroft entry through Building D could be made much more generous – two storey's in height at least, **but should be** open to the sky as a slot, otherwise it will become a less desirable undercroft space. The proportion of undercrofts - the relation of depth and height is very important. Building E would also benefit from having more articulation, preferably with at least one*

*less unit per floor. Building D steps too far south and obstructs a clear view line through to Wellington Street.*

- The eight storey building in the north-west corner is far too big a footprint and should be split in two. It currently has up to 11 apartments per floor, which is against the RFDC design principles. Its truck dock to Ocean Street is designed for garbage trucks and alternative solutions with less impact should be investigated to help reduce the bulk of the building and improve its street presence.

*The northern Building A remains as bulky and oversized as previously. It should be broken into 2 distinct buildings, each with their own core. It is not supported in its current form (see further comments below under Amenity).*

- The alignment, footprint and orientation of the two major slab elements should be more consistent with the other tall buildings on the upper slopes of Bondi, concentrated between Penkivil Street and Wellington Street.
- The Panel considers that the landscaped street setbacks may be able to be marginally reduced, by adopting an average setback rather than a minimal – *this appears to have been done.*
- The foyers should all be designed to receive natural daylight on all levels. This gives the foyers the potential to be pleasant social spaces, and provide a memorable homecoming for future residents while reducing energy consumption for artificial ventilation and lighting. These common spaces also improve light and cross ventilation opportunities for the apartments. Open stairs are also supported – *not adequately done – see further comments below under Amenity*”.

**Planning Comment (Amended Proposal):**

**The amended plans have reduced the width of Building A at the Ocean Street frontage and provide a defined ‘break’ in the middle of this building, visually providing two pavilions. This has allowed improvements in internal planning allowing better solar access and cross-ventilation to the units, corridors and foyers within.**

**Amended plans have reduced the height of Building C on the southern side to the eaves height of Scarba House to give it a more sympathetic and recessive relationship to the heritage listed building. This will ensure that from the public domain on Wellington Street and within the forecourt park in front of Scarba House, where the two buildings are most readily viewed together, Building C does not dominate.**

**The amended plans have also introduced a two storey void with lightweight glazing above in the centre of Building D in response to the comments by the Panel and Council’s Urban Design Officer. This provides articulation to the long facade of Building D improving the previously institutional and mundane appearance of this building. The amendments to Building D are considered to be a clear improvement and are supported.**

**The amended plans are considered to adequately address Principle 2 of SEPP 65.**

3. **BUILT FORM:**

“See comments above”.

**Planning Comment (Amended Proposal):**

**The amended plans are considered to adequately address Principle 3 of SEPP 65 (refer to discussion above under Principle 2).**



4. DENSITY:

*“The density appears to be suitable however more contextual information could be provided in support of the scheme (such as an estimate of the FSR for neighbouring high-density sites – not done).*

*Certainly the overall site FSR (the control is 1.5:1, and the Panel was informed that the design as submitted is 1.59:1) is not considered at all excessive. Subject to curtilage, massing and amenity issues being resolved, the Panel reiterates that this large site could support a slightly higher density, particularly given the potential public access and affordable housing benefits that could accrue.*

The sense of open space provided by the central green and the distance between the tall building elements means that the site should retain a generous scale. This openness could also directly benefit a number of neighbours and the wider community”.

**Planning Comment (Amended Proposal):**

**Council Officers did not agree with the Panel comments that the FSR for the site could be increased beyond the control of the LEP (due to the reasons outlined previously in the deferral matters within the ‘Relevant History’ section of this report). Amended plans have actually reduced the FSR of the proposal to 1.5:1 with no affordable housing bonus.**

**It is relevant to note that a large part of the overall site is (effectively) unable to be developed due to the heritage listed status of Scarba House, the corresponding curtilage area that surrounds it and the significant trees on the site.**

**The amended plans are now considered to adequately address Principle 4 of SEPP 65.**

5. RESOURCE, ENERGY USE AND WATER EFFICIENCY:

*“The site planning and detailed building design have the potential to create a positive environment for future residents. The Panel makes the following recommendations to improve the environmental performance:*

- *Currently there are too many single orientation units that would not benefit from cross ventilation or sun throughout the day (see comments elsewhere in this report). Too many units are oriented predominantly / exclusively to the south.*
- *(Cross) ventilation should be able to be maintained at night without compromising security. Sliding doors alone to balconies will not provide this and consideration needs to be given to fanlights, windows or other ventilation options. Window operation should be indicated on the elevations.*
- *Ceiling fans should be provided throughout – the Panel would like to see these dotted in plan.*
- *An improved roof design with clerestory windows could be used to capture winter sun and provide added light and ventilation, particularly to service rooms and at entries. Drawings should indicate roof thicknesses for falls, surface treatment and insulation.*
- *If the massing is reviewed, as recommended in this report, a reasonable percentage of kitchens, bathrooms and laundries should be able to have natural daylight and operable windows. Currently too many service rooms are internalised, given the scope to modulate the building footprints.*

- *Appropriate to each condition and orientation, sun-shading, window types and operation need to take account of different weather conditions, and allow occupants a variety of ventilation options whilst maintaining security.*
- *Terraces to the upper level should have reasonable shelter; ‘vergolas’ or extendable canvas awnings or the like may be appropriate and could be tested.*
- *Natural light to the foyers needs to be provided through windows, which should be openable for natural ventilation.*
- *Outdoor clothes drying areas for each dwelling”.*

**Planning Comment (Amended Proposal):**

The amended scheme improves the amenity of the units and the proposal meets the minimum requirements of the Residential Flat Design Code (RFDC) ‘Rules of Thumb’ in terms of the proportion of units naturally cross-ventilated and with sufficient solar access. Conditions have been recommended regarding details of window treatment (fanlights and ventilation options) and clerestory windows. Subject to further conditions, it is considered that the amended proposal provides adequate internal amenity for units and common areas of the building and appropriate environmental performance.

It is noted that the applicant has designed the proposal to exceed BASIX requirements by 25% for both water and energy. The SEE states that the scheme provides permeable paving and soft landscaping to reduce stormwater run-off and promote infiltration to existing mature trees, planting of the overland flow path to assist with water catchment quality, use of grey water for toilet flushing and irrigation of landscaping with harvested rainwater. The scheme is to be marketed as a ‘Clean and Green Bondi’ development going above and beyond the minimum BASIX requirements.

The amended plans are now considered to adequately address Principle 5 of SEPP 65.

6. LANDSCAPE:

*“A set of landscape drawings has now been submitted by a reputable landscape architectural practice. Previously, the Panel reported that it would support design initiatives such as the following:*

- *The generous amount of deep soil planting that occupies the entire centre of the site and the majority of the site’s perimeter – done, however the southern boundary along Wellington Street should allow some more deep soil planting.*
- *The retention of the major trees throughout the site – largely done.*
- *Compacting the car park footprints under the building footprints – largely done.*
- *The provision of perimeter screen planting to neighbouring residential buildings – largely done, though detail not always provided (eg southernmost boundary).*
- *The allocation of a reasonable number of private ground floor terraces / gardens – done.*
- *The allocation of common garden plots – substantial area of plots shown on the landscape plans – strongly supported.*
- *The roof terraces could have a positive landscape character – not attempted, the lower roofs in particular which are heavily overlooked, should be planted.*
- *A VPA / any developer contributions could be provided as a planning agreement to make improvements to Dickson Park and improve the public domain of Wellington Street – not evident.*

- *The treatment to the alley off Ocean Street should be improved by relocating the substation (perhaps to the southern end of the Wellington St frontage), and by removing the gates which are noted.*

*The landscape drawings generally show a clear intent, although they do not always have the detail that should accompany a DA, in the Panel's opinion".*

**Planning Comment (Amended Proposal):**

The amended proposal provides sufficient deep soil planting on the site, well in excess of both SEPP 65 and the DCP requirements. The SEE states that high quality material will be used in the roof design to provide an aesthetically appropriate appearance suitable to be viewed by onlookers. There will also be natural screening through the retention of trees on the site. No further planting to roof structures is considered necessary in this regard.

Both the SEPP 65 Panel and Council Officers have raised the positioning of the substation at the Ocean Street entrance to the alley as an inappropriate location for such a structure given that it blocks part of the entrance to the through-site link, provides an area of concealment within the link and detracts from a desired 'inviting' public entry to the site. The Applicant has resisted relocating the substation and has provided a letter from the Integrated Group Services (IGS), an accredited service provider, that states that this is the most appropriate location for the substation based upon liaison with Ausgrid, the surrounding energy infrastructure and compliance with Ausgrid's technical requirements for kiosk substation design.

Council Officers expressed a desire to locate the substation within the front landscaping of Building A on Ocean Street however IGS have advised that a blast zone of 6m is required which will result in large sections of blank, reinforced concrete walls from the street level up to the third storey. Council are still of the opinion however, that the substation could be provided in a less conspicuous location on the site, given the extensive frontages that the site possesses. There is potential to locate the substation adjacent to the car park entry to Building A which would have little impact upon the appearance of the building given that the main building is more than 6 metres away. Additionally, as the car park entry provides a service function, the substation adjacent to this location is more consistent with that use. Accordingly, a condition is included within the 'Recommendation' requiring the substation be located within the front setback of Building A and suitably screened within the streetscape with landscaping treatments.

The amended plans are considered to adequately address Principle 6 of SEPP 65.

7. AMENITY:

*"While the site planning and massing redesign has been improved (and could further be improved as suggested above), the Panel noted with that the scheme struggles to meet key RFDC issues such as:*

- *The number of single orientation units, which limits both ventilation, outlook and sun (RFDC sets a very low minimum in the Rule of Thumb of 60%, which does not well accord with either its relevant Objectives or Better Design Practice pg 86-87):*
  - *Building A has 7/11 per floor on the lower floors (2 of these units have minor secondary orientation in shallow slots, which the Panel discounts as true cross ventilation), and 4/9 on typical upper levels, 0/5 on top floor;*
  - *Building D (East) has 3/7 per floor, while Building D (West) has 2/4 per floor;*

- *Building E has 4/8 units per floor (shallow shaded slots again discounted).*
- *In Building E, the wider single orientation north units are considered acceptable.*
- *Single orientation south apartments (10% maximum in Rule of Thumb pg 85):*
  - *Building A has 3/11 per floor on the lower floors, and 2/9 on typical upper levels, 0/5 on top floor;*
  - *Building D (East) has 1/7 per floor;*
  - *Building E has 0/8 units per floor.*
- *The number of units served off a core (8 maximum in RFDC, but 3.27 illustrates better practice with 4 per core);*
  - *Building A has 11 per floor on the lower floors, and 9 on typical upper levels, 6 on top floor;*
  - *Building D (East) has 7 per floor;*
  - *Building E has 8 units per floor.*
- *Only Building D (West) appears satisfactory with regard to common lobbies.*

*All rely on hold open devices through the single fire stair in each building to admit a minimal amount of daylight to the long common corridors. Presumably the fire stair windows are fixed, so no natural ventilation would be available. This is unacceptable, and at least 1 additional open-able window needs to be added to each core on all levels. It is the Panel's experience that building managers over time quite often close the hold open doors for perceived issues of security between floors.*

*A scheme such as this should well exceed all RFDC minima.*

*In Building A, the end units have overlong, cranked internal corridors, a result of trying to have too many units accessed off a single core. These corridors would be dark and feel narrow, and would not provide a good sense of homecoming for future residents.*

*With the exception of the issues highlighted above, generally the internal planning appears sound. However both the small and large scale plans submitted lack room dimensions. Dimensioned plans of all levels for each building, showing their immediate context, should be submitted for assessment and review".*

**Planning Comment (Amended Proposal):**

**The amended proposal has improved the internal layout of buildings and the proposal meets the RFDC requirements for cross ventilation, solar access and number of single aspect apartments. The introduction of articulation to the centre of Buildings A and D have resulted in greater daylight and ventilation to common areas and lobbies.**

**The amended plans are now considered to adequately address Principle 7 of SEPP 65.**

**8. SAFETY AND SECURITY:**

*"The Panel recommends that the public walkways be un-gated and open 24 hours a day. The southern part of the site should be gated along the line of Building D, while in the northern part, each building could be secure.*

*The central garden would have excellent way-finding and surveillance".*

**Planning Comment (Amended Proposal):**

**As previously discussed, Council is not seeking the dedication of the through-site links and the forecourt park as public land. A condition will require that the links be open during**

daylight hours however gates are considered appropriate for the security of the site at night.

Comments were provided by the Local Police in regards to the safety and security of the site. These comments are included as conditions where recommended / appropriate.

The amended plans are considered to adequately address Principle 8 of SEPP 65.

9. SOCIAL ISSUES:

*"A large site such as this should yield a social dividend, and not just be a high cost residential enclave. The previous project featured a mix of open spaces. The shop and social uses proposed at ground floor will be great benefit to the future residents and the wider community – this does not appear on the current plan, which is a significant loss in term of its urban and social contribution. A shop at street level opposite the school would seem to be highly desirable.*

*It remains crucial that the site does not operate as an enclave or gated community and can serve to create mid-block pedestrian routes within a high-density area.*

The Panel understands that a long daycare centre was previously operated on the site. The Panel would encourage options for childcare, as the co-location of such a facility with the adjacent schools would provide further major social benefits – *not done*.

*The provision of a reasonable percentage of affordable accommodation would be strongly supported, using a VPA or as a quid pro quo for the additional FSR being sought.*

A car share scheme should be included as a progressive initiative – *not evident on the plans*.

*The social inclusion that long previously characterised this large site appears to have now been totally lost, as the scheme seems to have become a monoculture of market housing".*

**Planning Comment (Amended Proposal):**

Council Officers do not agree that a shop is necessary on this site. The site is within proximity of Bondi Road commercial area where there are a multitude of shops providing appropriate services to the public. Additionally, Council Officers also do not agree that the site could accommodate additional floor space in exchange for affordable housing. The amended plans, upon the requirements of Council Officers, have reduced the FSR to no more than the maximum allowable FSR of 1.5:1.

No childcare centre has been provided for the site and the controls do not require that high density development provide childcare facilities on site. In effect, although the provision of childcare within the LGA is desirable there are not controls which enforce their provision.

Three car share spaces are included within the basement car park.

The proposal provides additional housing in a high density zone which is entirely consistent with the aims of the high density zonings and the NSW State Plan 2021 to increase housing stock and affordability. The proposal provides semi-public through-site links and a forecourt park and allows public pedestrian access through to Dickson Park and Wellington Street. The proposal is considered to provide social inclusion and benefits and is supported.

**The amended plans are considered to adequately address Principle 9 of SEPP 65.**

10. AESTHETICS:

*“Now a full DA, the elevations show promise but remain too schematic. The ‘dynamic corners’ are potentially dramatic, but also risk being overly aggressive. The rectangular north-eastern corner shows that a calmer aesthetic can still present a strong presence in the street. The elevations still need to be developed in line with site planning and massing changes set out in this report.*

*The Panel notes that the various photomontages do justice to the proposal, however this potential needs to be reliably captured in dimensioned and notated sections and elevations. Notes such as “Colours presented on drawings are generic only and indicative of the architectural design intent...”, while perhaps truthful, do not really belong in a submitted DA.*

*1:50 sections/part elevations through the various façade conditions need to be provided, indicating materials, good sun-shading, screening, handrail and balustrade types and reasonable articulation. The materials need to be referenced to the actual elevations, rather than as a disembodied ‘façade materials and finishes’ sample panel. Wall and window types (including their operation) need to be refined, and fully reported on in the DA drawings”.*

**Planning Comment (Amended Proposal):**

**The amended proposal provides a well-planned contemporary development with landscaped public and private spaces and permeability for the occupants and surrounding sites. The improved articulation of the buildings fronting Ocean and Wellington Streets and the improved pedestrian way-finding to Building E are positive aspects of the amended scheme. Additionally, the reduction in scale of Building C on Wellington Street allows views through to the development centrepiece, Scarba House. A condition is recommended requiring the materials and finishes to be referenced on architectural plans.**

**The amended plans are considered to adequately address Principle 10 of SEPP 65.**

SUMMARY AND RECOMMENDATIONS:

*“While improved since the pre-DA, the Panel remains concerned that the site planning, public benefits, curtilage and manipulating the mass all need further improvement to meet SEPP65 and RFDC requirements. The layout needs to balance amenity with the positive relationship to neighbouring properties.*

*The Panel does not support this proposal in its current form, and recommends that it needs to review this application again when the design is further progressed and the Panel’s comments fully addressed”.*

**Planning Comment (Amended Proposal):**

**The amended proposal is considered to address the appropriate SEPP65 Panel comments. The amended scheme was not referred to the Panel again as this was not considered necessary and the assessment was completed by Council Officers taking into consideration previous comments made by the Panel.**



## SEPP Infrastructure 2007

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State.

The proposal is not a 'traffic generating development' under the provisions of this SEPP being located more than 90 metres from a 'classified road' (i.e. Bondi Road). As such, concurrence from the RMS is not required.

The proposal includes the provision of a substation on Ocean Street within the through-site link which would be adjacent to an existing substation within 24 Ocean Street. Under the provisions of Subdivision 2 of the SEPP in regards to development likely to affect an electricity transmission or distribution network, this would require the concurrence of the electricity supply authority for the area (Ausgrid). However, as outlined in detail previously in this report (within the SEPP 65 section), Council seeks to impose a condition which will relocate the substation to within the front setback of Building A. If relocated, concurrence from the service authority would not be required. It has been Council's intention from the outset that the substation be relocated and as such, concurrence has not been sought as part of this development application.

Should the Joint Regional Planning Panel not seek the relocation of the substation, it is recommended that Deferred Commencement consent be granted to address concurrence from electricity supply authority prior to the consent being operational.

## 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	<p>The proposal is consistent with the aims of the LEP in particular aim 2(c) to provide for a range of residential densities and range of housing types to meet the changing housing needs of the community.</p> <p>The proposal will provide increased density of an accessible site with a range of one to three bedroom units and dwellings.</p>
Part 2 Permitted or Prohibited Development		
2.6 Subdivision – consent requirements	N/A	The subdivision of the proposal is not included within the current application and would be subject to separate development consent.
Land Use Table R4 – High Density Residential Zoning	Yes	Both 'residential flat buildings' and 'dwellings' (Scarba House) are permitted within the zoning.

		The proposal is consistent with the zone objectives in that it will provide for the housing needs of the community and provide a variety of housing types within a high density residential environment.
<b>Part 4 Principle Development Standards</b>		
4.3 Height of Buildings	No	<p>Building C marginally exceeds the height control for that part of the site.</p> <p>A detailed discussion regarding the height of the development as a whole is contained within the 'Issues' section of this report.</p>
4.4 Floor space ratio 1.5:1	Yes	The proposal achieves an FSR of 1.5:1 complying with the 1.5:1 control for the sites.
4.6 Exceptions to Development Standards	Yes	An Exception to a Development Standard in relation to the height has been received. Refer to 'Issues' section of this report for detailed discussion.
<b>Part 5 Miscellaneous Provisions</b>		
5.9 Preservation of trees or vegetation	Yes	<p>The proposal includes the removal of approximately 54 trees and the planting of approximately 70 new trees.</p> <p>The proposal was referred to Council's Tree Preservation Officer and Strategic Tree Planning Officer with their comments detailed later in this report.</p>
5.10 Heritage Conservation	Yes	<p>Scarba Home (30 Wellington St) is a listed as a general heritage item (Item No. 171 in the LEP). Additionally, Scarba Home and the remnant garden are listed as a Landscape Heritage Item (Item No. 1502 in the LEP).</p> <p>The site also adjoins Dickson Park to the north which is a landscape conservation area and is located adjoining listed sites at 34 and 34A Ocean Street and Bondi Public School opposite the site on Wellington Street.</p> <p>Refer to 'Issue' section of this report for detailed discussion.</p>
<b>Part 6 Additional Local Provisions</b>		
6.1 Acid Sulphate Soils	N/A	The Acid Sulphate Soils map does not indicate that the subject site is affected by acid sulphate soils.
6.2 Earthworks	Yes	The proposal includes extensive excavation in association with the double level car parks under Buildings A, D and E.

		Appropriate conditions in relation to the earthworks are included within the recommended conditions of consent.
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### 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	<p>The proposal includes a designated area within the basement car park of Building A for the collection of waste bins. The basement will be provided with a garbage truck loading area adjacent to a bin holding room that will be fitted with a turntable to allow trucks to enter and exit the site in a forward direction.</p> <p>The proposal will utilise a chute system for waste disposal rather than smaller MGB bins. Waste will be collected through the chute system and stored in 600L and 240L bins in the basement levels. Buildings A, D and E will be serviced by at least one centrally located chute, which will receive general waste and mixed recyclables. A waste caretaker will be employed that will oversee the waste system including maintenance and cleaning and the transfer of bins from Buildings A, B, D and E to the 'bin holding area' within the basement of Building A for collection.</p> <p>Additionally each unit will be provided with a waste cupboard in the kitchen and a waste room will be provided on each level of Buildings A, D and E for the storage of paper and cardboard, which is collected separately from other recyclables.</p> <p>Building C will provide a bin storage area within the basement and the caretaker will transport the bins for this building to Wellington Street for kerbside collection. Scarba House will also have bins placed on Wellington Street for collection. This is further discussed under the 'Referral' section of this report and a condition is included</p>

		<p>in the 'Recommendation' requiring that all bins be collected from the 'bin holding area' under Building A.</p> <p>Further conditions are included within the 'Recommendation' regarding the waste generation, storage and collection.</p>
2. Energy and Water Conservation	Yes	<p>A BASIX Certificate was provided with the application.</p> <p>Additionally, the developer states that they have committed to a BASIX score that exceeds the minimum targets by 25% for both water and energy. <i>"In addition to the water and energy savings, the buildings have been designed to encourage good passive solar design. These initiatives include passive and natural ventilation to reduce heating and cooling loads, as well as the use of architectural devices such as layering of facades and louvre screening to maximise daylight levels whilst controlling glare and overheating."</i></p> <p>The proposal will retain significant vegetated areas especially within the semi-public Scarba Home forecourt park. The landscaping will incorporate permeable paving and soft landscaping to reduce run-off and promote infiltration. The proposal also uses grey water for toilet flushing, irrigated landscaping with harvested rainwater and the planting of the overland flow path to assist with water catchment quality.</p> <p>Given the above, it is considered that the proposal is consistent with the objectives and controls within this part of the DCP.</p>
3. Biodiversity	Yes	<p>The site is not identified as being within a 'biodiversity' corridor on the Terrestrial Biodiversity Map however it is located within a Habitat Corridor.</p> <p>The application has been referred to Council's Biodiversity Officer and conditions regarding planting local native species were recommended which is included within the Recommendation.</p>
5. Tree Preservation	Yes	<p>The proposal includes the removal of approximately 54 trees and the planting of approximately 70 new trees.</p> <p>The proposal was referred to Council's Tree</p>

		Preservation Officer and Strategic Tree Planning Officer with their comments detailed later in this report.
6.Stormwater Management and Flooding	Yes (via condition)	Further details of the proposed stormwater disposal system have been requested by Council's Creating Waverly Sub Program. A condition to this effect is included within the Recommendation.
7.Accessibility and Adaptability <ul style="list-style-type: none"> <li>• Lift to be provided to buildings 3 or more storeys.</li> <li>• 10% of car spaces to be accessible.</li> <li>• 10% of units must be adaptable and have a range of unit sizes.</li> </ul>	Yes	<p>The proposed development provides level access to the lobbies/entrances of all buildings (with the exception of Scarba Home). Lifts will be provided within Buildings A, C, D and E for access to all upper levels.</p> <p>The proposal will also provide 19 adaptable units (10% of total units) and 20 accessible car spaces complying with the DCP controls.</p> <p>Furthermore, a standard condition of consent requires compliance with the Building Code of Australia (BCA) which includes the Disability Discrimination Act (DDA).</p>
8. Transport	No	Refer to 'Issues' section of this report for detailed discussion.
9. Heritage	Yes	Refer to 'Issues' section of this report for detailed discussion.
10. Safety	Yes	<p>Casual surveillance of the site is maximised by orientating units into semi-public and private spaces. Building D overlooks the semi-public forecourt park increasing passive surveillance and perceived security within this space.</p> <p>The through site links will only be accessible to the general public during the day and closed at night to limit anti-social behaviour. The proposal provides clear and legible entries to individual buildings and will limit access into private spaces through the use of gates and fences.</p> <p>The application was referred to NSW Police and conditions regarding the security of the site were provided. Where relevant, these are included in the Recommendation as conditions of consent.</p>

**Waverley DCP 2012 – Part C**  
**Residential Development – Multi Unit and Multi Dwelling Housing**

Development Control	Compliance	Comment
<b>2.2 Site Scale and Frontage</b> <ul style="list-style-type: none"> <li>Max FSR: 1.5:1</li> <li>Min frontage: 20m</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>The amended proposal complies with the FSR control for the site as previously discussed.</p> <p>The sites on both Wellington Street and Ocean Street have in excess of the minimum street frontage. The proposal will not result in the isolation of adjoining properties on Ocean and Wellington Streets given that all relevant adjoining properties are already residential flat buildings.</p>
<b>2.3 Height</b>	<b>No</b>	<p>Building C marginally exceeds the height control for that part of the site.</p> <p>A detailed discussion regarding the height of the development as a whole is contained within the 'Issues' section of this report.</p>
<b>2.4 Excavation</b> <ul style="list-style-type: none"> <li>No fill to raise levels</li> <li>Min 1.5m setback from side boundaries</li> <li>Under building footprint except main access ramp</li> <li>Basements no more than 1.2m out of the ground</li> <li>Geotech report when &gt; 3m in depth or 25% slope</li> </ul>	<p>Yes</p> <p><b>No</b></p> <p>Yes</p> <p>Yes</p> <p>Yes (by condition)</p>	<p>The proposal includes excavation under Building C to provide plant and two levels below ground under Buildings A, D and E for basement parking. The proposal also includes a connecting single width underground road between the two basement car parks.</p> <p>For all buildings with excavation below, the excavation is contained within the footprint of the building and is contained below the ground level.</p> <p>Appropriate conditions regarding excavation and the provision of Geotechnical reports are included within the recommended conditions of consent.</p> <p>Building C provides adequate setbacks from boundaries for the excavation to comply with the DCP. The excavation under Buildings A, D and E are built up to side boundaries at certain points and have inadequate setbacks to comply with the DCP. Refer to 'Issues' section of this report for detailed discussion.</p>
<b>2.5 Setbacks</b> <p><u>Building A:</u></p> <ul style="list-style-type: none"> <li>Consistent street setback</li> <li>Min side setback – 6m</li> </ul>	<p>Yes</p>	<p><u>Building A:</u></p> <p>The building will generally align with the predominant street setback on the eastern side</p>



<ul style="list-style-type: none"> <li>Min rear setback – 6m</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	No N/A Yes	<p>of Ocean Street with only balconies encroaching forward. The street setback of this building is considered appropriate.</p> <p>At ground level Building A is set back a minimum of 5.4m from the northern boundary and 3.3m from the southern boundary. This does not meet the minimum 6m requirements - refer to 'Issues' section of this report for detailed discussion.</p> <p>Building A has deep soil zones on both sides of the building complying with the control.</p>
<p><u>Building B:</u></p> <ul style="list-style-type: none"> <li>Consistent street setback</li> <li>Min side setback – 6m</li> <li>Min rear setback – 6m</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	N/A Yes N/A Yes	<p><u>Building B:</u></p> <p>This building shares a boundary with Dickson Park to the north and is setback 6.2m complying with the minimum control.</p> <p>There are deep soil zones to the front and rear of this building.</p>
<p><u>Building C:</u></p> <ul style="list-style-type: none"> <li>Consistent street setback</li> <li>Min side setback – 6m</li> <li>Min rear setback – 6m</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	No No N/A Yes	<p><u>Building C:</u></p> <p>This building will have a minimal setback from Wellington Street and is not consistent with the predominant street setback.</p> <p>The northern side setback is 4.8m.</p> <p>The building has deep soil zones on the northern, southern and western sides.</p> <p>Refer to 'Issues' section of this report for discussion regarding non-compliances.</p>
<p><u>Building D:</u></p> <ul style="list-style-type: none"> <li>Consistent street setback</li> <li>Min side setback – 6m</li> <li>Min rear setback – 6m</li> <li>Deep soil along side boundary min 2m wide</li> </ul>	Yes Yes Yes Yes	<p><u>Building D:</u></p> <p>Building D fronts Wellington Street and has a staggered front setback (due to the design) that is generally consistent with the street. The front setback is considered appropriate.</p> <p>The rear setback is 6m complying with the control.</p> <p>The southern side setback varies from 18-17m.</p> <p>The building has a deep soil zone on the northern side.</p>
<p><u>Building E:</u></p> <ul style="list-style-type: none"> <li>Consistent street setback</li> <li>Min side setback – 6m</li> </ul>	Yes Yes	<p><u>Building E:</u></p> <p>Building E has no street frontage.</p> <p>The proposal has been amended to provide a</p>

<ul style="list-style-type: none"> <li>• Min rear setback – 6m</li> <li>• Deep soil along side boundary min 2m wide</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>minimum of 6m from the southern, eastern and western boundaries.</p> <p>The building provides a compliant deep soil zone along the western and southern boundaries.</p>
<p><b>2.6 Length of Buildings</b></p> <p><u>Building A:</u></p> <ul style="list-style-type: none"> <li>• Max length: 24m</li> <li>• Max depth of unit: 18m</li> <li>• Max depth of single aspect unit: 8m</li> </ul> <p><u>Building B:</u></p> <ul style="list-style-type: none"> <li>• Max length: 24m</li> <li>• Max depth of unit: 18m</li> <li>• Max depth of single aspect unit: 8m</li> </ul> <p><u>Building C:</u></p> <ul style="list-style-type: none"> <li>• Max length: 24m</li> <li>• Max depth of unit: 18m</li> <li>• Max depth of single aspect unit: 8m</li> </ul> <p><u>Building D:</u></p> <ul style="list-style-type: none"> <li>• Max length: 24m</li> <li>• Max depth of unit: 18m</li> <li>• Max depth of single aspect unit: 8m</li> </ul> <p><u>Building E:</u></p> <ul style="list-style-type: none"> <li>• Max length: 24m</li> <li>• Max depth of unit: 18m</li> <li>• Max depth of single aspect unit: 8m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>	<p><u>Building A:</u></p> <p>The amended proposal has reduced the length of the building to 24m at the street front.</p> <p>All units have depths less than 18m.</p> <p>The vast majority of single aspect units do not exceed a depth of 8m from a window with a few minor exceptions. The variations are minor and it is considered that the units have been designed to achieve adequate light penetration and amenity.</p> <p><u>Building B:</u></p> <ul style="list-style-type: none"> <li>• No street frontage.</li> <li>• Max depth is 15.5m.</li> <li>• Not single aspect.</li> </ul> <p><u>Building C:</u></p> <ul style="list-style-type: none"> <li>• Length on Wellington is 21.6m.</li> <li>• All units less than 18m depth.</li> <li>• No single aspect units.</li> </ul> <p><u>Building D:</u></p> <ul style="list-style-type: none"> <li>• Length on Wellington is 18m.</li> <li>• All units less than 18m depth.</li> <li>• On each level there are two single aspect units on the southern side of the building which have a maximum depth from a window to the entry door of 10m. Given that the area which exceeds the control is to an access area and not a habitable space, this is considered acceptable.</li> </ul> <p><u>Building E:</u></p> <ul style="list-style-type: none"> <li>• No street frontage.</li> <li>• All units less than 18m depth.</li> <li>• All single aspect units generally comply with the maximum 8m depth.</li> </ul>
<p><b>2.7 Building Separation</b></p> <p><u>Building A:</u></p> <p><b>5-8 Storeys:</b></p>	<p>No</p>	<p><u>Building A:</u></p> <ul style="list-style-type: none"> <li>• North (No. 16 Ocean St – part 4 and 5</li> </ul>

<ul style="list-style-type: none"> <li>• Min 9m btw non-habitable rooms</li> <li>• Min 13m btw non-habitable and habitable/balconies</li> <li>• Min 18m btw habitable and balconies</li> </ul> <p><u>Building B:</u> <b>Up to 4 storeys:</b></p> <ul style="list-style-type: none"> <li>• Min 6m btw non-habitable rooms</li> <li>• Min 9m btw non-habitable and habitable/balconies</li> <li>• Min 12m btw habitable and balconies</li> </ul> <p><u>Building C:</u> <b>Up to 4 storeys:</b></p> <ul style="list-style-type: none"> <li>• Min 6m btw non-habitable rooms</li> <li>• Min 9m btw non-habitable and habitable/balconies</li> <li>• Min 12m btw habitable and balconies</li> </ul> <p><u>Building D:</u> <b>5-8 Storeys:</b></p> <ul style="list-style-type: none"> <li>• Min 9m btw non-habitable rooms</li> <li>• Min 13m btw non-habitable and habitable/balconies</li> <li>• Min 18m btw habitable and balconies</li> </ul> <p><u>Building E:</u> <b>5-8 Storeys:</b></p> <ul style="list-style-type: none"> <li>• Min 9m btw non-habitable rooms</li> </ul>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>	<p>storeys): Separation distances are insufficient ranging from 8-14 metres when 18m is required.</p> <ul style="list-style-type: none"> <li>• South (No. 24 Ocean St): 13-14m when 12m is required (No. 24 being only 4 storeys).</li> </ul> <p><u>Building B:</u></p> <ul style="list-style-type: none"> <li>• East (Building A – 2 storeys): 3m between living area windows when 6m is required.</li> </ul> <p>The only opposing window on Building B is a small slot window on the western elevation. This window is a secondary window to the living area and is located opposite a living area window on Building A. A condition will require that the window is obscure glazed or fitted with privacy screening to alleviate privacy impacts satisfying the intent of the control.</p> <p><u>Building C:</u></p> <ul style="list-style-type: none"> <li>• East (No. 15 Wellington St): 22m separation when 12m is required.</li> <li>• West (Scarba Home): 7.2m between habitable rooms when 12m is required.</li> </ul> <p>The window in question is one of two windows to a bedroom within Unit C1.03 with the other window being on the southern elevation. A condition will require that the window is obscure glazed or fitted with privacy screening to alleviate privacy impacts satisfying the intent of the control.</p> <p><u>Building D:</u></p> <ul style="list-style-type: none"> <li>• South (Building E): Windows and balconies are offset – no separation distance required.</li> <li>• South (No. 22-28 Wellington St): 22m when 18m is required.</li> <li>• East (Public School): 21m.</li> <li>• West (26 Ocean St): No windows/balconies on western elevation therefore no separation distance required.</li> </ul> <p><u>Building E:</u></p> <ul style="list-style-type: none"> <li>• North (Building D): Windows and balconies are offset – no separation distance required.</li> </ul>
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<ul style="list-style-type: none"> <li>• Min 13m btw non-habitable and habitable/balconies</li> <li>• Min 18m btw habitable and balconies</li> </ul>	<p>No</p> <p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>• East (No. 22-28 Wellington St): 16.5m in the south-east corner however remainder of elevation is 18m when 18m is required.</li> <li>• South (No. 18 Wellington St): Approx 30m.</li> <li>• West (No. 32 Ocean St): 13m when 12m is required.</li> <li>• West (No. 26 Ocean St): 15.6m when 18m is required.</li> </ul> <p>Refer to 'Issues' section of this report for detailed discussion regarding non-compliances for Buildings A and E.</p>
<p><b>2.8 Building Design and Streetscape</b></p> <ul style="list-style-type: none"> <li>• Respond to streetscape</li> <li>• Sympathetic external finishes</li> </ul>	<p>Yes</p> <p>Yes</p>	<p>Building A on Ocean Street and Buildings C and D on Wellington Street provide well designed, appropriately articulated built forms the street. The buildings are an appropriate width at the street front to reduce the perceived bulk and scale and provide a considered response to the streetscape.</p> <p>Building C on Wellington Street will provide a strong street presence built up to the corner and raised above the street (due to the existing fall of the land with retaining walls on Wellington Street). The materials and finishes are of high quality providing a strong contemporary building addressing the street and Dickson Park.</p> <p>The retention of Scarba Home, the significant landscaped forecourt area and the sandstone retaining walls on Wellington Street also provides a positive contribution to the streetscape, retaining elements of the site's historic past.</p> <p>Overall the development will provide an appropriately scaled, high quality development to the area.</p>
<p><b>2.9 Fences and Walls</b></p> <ul style="list-style-type: none"> <li>• Front fence: Max height 1.2m, max 2/3 solid</li> <li>• Front fence: Max 1.8m and solid when secondary wall set within property if required for traffic noise</li> <li>• Side fence: Max height 1.8m</li> <li>• Rear fence: Max Height 1.8m</li> </ul>	<p>Yes</p>	<p>The proposal incorporates appropriate fencing on all boundaries.</p> <p>Standard 1800mm high fencing is included along most boundaries with the exception of Dickson Park, Ocean Street and Wellington Street frontages.</p> <p>Along the Dickson Park frontages, the boundary treatment is comprised of retaining walls with low walling above. As these properties fronting</p>

		<p>the park are at a higher level, this arrangement allows views into the park increasing passive surveillance and the security of Dickson Park.</p> <p>On Wellington Street, the sandstone base wall is being retained with palisade fencing above. This allows views into, and out of, the site and increases viewing of Scarba House and the forecourt park from Wellington Street making this a more open and inviting area encouraging public use.</p> <p>On Ocean Street, front walls will be kept low, once again, allowing views into the site and to the lobby of the building from the street.</p> <p>The Allee will be gated to allow access through the site during the day and closed off at night for security.</p> <p>The proposed boundary treatments are considered to be appropriate to the site.</p>
<b>2.10 Vehicular Access and Parking</b> <ul style="list-style-type: none"> <li>• Integrated into the design</li> <li>• Secondary to pedestrian entrance</li> <li>• Max of 1 x 2-way driveways</li> <li>• From rear or side where possible</li> <li>• Pedestrian safety</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>	<p>The proposal provides two double level basement car parks within the development. One car park is under Building A and one under Buildings D and E. Both car parks are integrated into the design of the building allowing the building facade to be the dominant streetscape element.</p> <p>The development provides 1 two-way driveway off Ocean Street and the 2 separate driveways (one for entry, one for exit) off Wellington Street.</p> <p>Not possible to provide access from rear or side boundaries.</p> <p>The proposal provides adequate sightlines on street for pedestrian safety. A turning bay for service vehicles to enter and leave in a forward direction is provided in the car park from Ocean Street.</p>
<b>2.11 Pedestrian Access and Entry</b> <ul style="list-style-type: none"> <li>• Entry at street level</li> <li>• Accessible entry</li> <li>• Legible, safe, well-lit</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The pedestrian entries to all buildings are clear and separate from the vehicular entries. Accessible access from the street to the lift and lobbies or the front doors of all buildings (where lifts are provided) has been incorporated into the design.</p> <p>The proposal incorporates ramps and pathways</p>

		throughout the site including around, and within, the landscaped spaces.
<b>2.12 Landscaping</b> <ul style="list-style-type: none"> <li>Min 30% landscaped</li> <li>15% of the above is to be deep soil</li> </ul>	Yes Yes	<ul style="list-style-type: none"> <li>64% of site landscaped area.</li> <li>51% of landscaped area is deep soil.</li> </ul> <p>The proposal includes extensive landscaping and private and semi-public open space. A public benefit of the proposal is that the Scarba Home forecourt is to be retained and a through-site link from Ocean Street to Wellington Street is incorporated into the design for access for the public during the day.</p>
<b>2.13 Communal Open Space</b> <ul style="list-style-type: none"> <li>Min 25% communal (R4 zone)</li> <li>Min dimensions 6m x 6m</li> <li>Min 30% of communal area must receive 3 hours sunlight</li> <li>Accessible</li> </ul>	Yes Yes Yes Yes	<ul style="list-style-type: none"> <li>47% of site is communal open space.</li> <li>The central garden alone has dimensions of 28m x 80m.</li> <li>41% receives minimum sunlight requirements.</li> <li>The large communal garden is accessible being provided at the ground level in a central location on the site.</li> </ul>
<b>2.14 Private Open Space</b> <ul style="list-style-type: none"> <li>Min 75% of dwellings to have private open space</li> <li>Must be off living area</li> <li>Courtyards – Min 25m<sup>2</sup> and 3m x 3m</li> <li>Balconies – Min 10m<sup>2</sup> and 2.5m depth</li> </ul>	Yes Yes No No	<p>All units (100%) within the development will be provided with private open space in the form of a balcony or courtyard that is directly accessed from the living areas.</p> <p>The courtyards located at the ground floor level generally meet the size requirements of the DCP with a few minor exceptions.</p> <p>There are a number of balconies which do not meet the minimum size requirements of the DCP.</p> <p>Refer to 'Issues' section of this report for detailed discussion.</p>
<b>2.15 Solar Access and Overshadowing</b> <ul style="list-style-type: none"> <li>Min 3 hours of sunlight to Min 70% of units</li> <li>Adjoining properties to retain Min 3 hours of sunlight</li> </ul>	Yes Yes	<ul style="list-style-type: none"> <li>72% of units achieve the minimum solar access requirement.</li> <li>Refer to 'Issues' section of this report for detailed discussion.</li> </ul>
<b>2.16 Views and View Sharing</b> <ul style="list-style-type: none"> <li>Minimise view loss</li> </ul>	Yes	Refer to 'Issues' section of this report for detailed discussion.
<b>2.17 Visual Privacy and Security</b> <ul style="list-style-type: none"> <li>Minimise overlooking</li> </ul>	Yes	Refer to 'Issues' section of this report for detailed discussion.



<p><b>2.18 Apartment Size and Layout</b></p> <ul style="list-style-type: none"> <li>• Single aspect – depth limited to 8m from a window</li> <li>• The back of a kitchen should be no more than 8m from a window</li> <li>• Width of an apartment over 15m deep to be more than 4m wide.</li> <li>• Should provide mix of 1,2,3 bed units</li> </ul> <p>Minimum Size</p> <ul style="list-style-type: none"> <li>• Studio: 35m<sup>2</sup></li> <li>• 1 Bedroom: 50m<sup>2</sup></li> <li>• 2 Bedroom: 80m<sup>2</sup></li> <li>• 3 Bedroom: 100m<sup>2</sup></li> </ul>	<p>No</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>The majority of single aspect units within the development will comply with the 8m control. There are a small number of units which slightly exceed the control however in most cases the measured depth includes corridor and access space from the entry with the main habitable parts of the unit being within 8m of a window. In other units the back of galley kitchens will exceed the control. The units will provide adequate levels of light and amenity and the minor variation to the controls can be accepted.</p> <p>All units within the development are more than 4m wide.</p> <p>The proposal provides a mixture of one, two and three bedroom units (refer to previous section of this report for actual mix).</p> <p>The proposal generally satisfies the minimum size requirements of the DCP. Where minor variations arise, the proposal complies with the Residential Flat Design Code (RFDC) requirements which have greater weight than the DCP controls. The RFDC controls for unit sizes are slightly less than the DCP being 70sqm for 2-bedroom units and 95sqm for 3-bedroom units.</p> <p>The unit sizes and layouts are considered appropriate providing satisfactory amenity to future occupants of the development.</p>
<p><b>2.19 Ceiling Heights</b></p> <ul style="list-style-type: none"> <li>• Min 2.7m for residential</li> </ul>	<p>Yes</p>	<p>The proposal will provide at least 2.7m ceiling heights for all buildings.</p>
<p><b>2.20 Storage</b></p> <p>Minimum Size</p> <ul style="list-style-type: none"> <li>• Studio: 6m<sup>3</sup></li> <li>• 1 Bedroom: 6m<sup>3</sup></li> <li>• 2 Bedroom: 8m<sup>3</sup></li> <li>• 3 Bedroom: 10m<sup>3</sup></li> </ul>	<p>Yes</p>	<p>The units provide additional storage cupboards internal to the units and also communal storage spaces within the basement car parks.</p> <p>The proposal will generally satisfy this requirement.</p>
<p><b>2.22 Acoustic Privacy</b></p> <p>Internal amenity by locating noisy areas away from quiet areas</p>	<p>Yes</p>	<p>The layout of each floor within each building are generally similar and as such, noise generating areas are generally located above/below other noise generating areas.</p> <p>The site is located within a high density residential area. The surrounding area is characterised by residential flat building with balconies. The use is entirely compatible with surrounding properties.</p>

		Noise from the use of a residential property within a residential zone is not unrealistic or unreasonable. Normal use of a residential property will generate residential noise (i.e. neighbours will be able to hear other neighbours in a residential area) which is considered acceptable.
<b>2.23 Natural Ventilation</b> <ul style="list-style-type: none"> <li>Min 60% of units cross-ventilated</li> </ul>	Yes	<ul style="list-style-type: none"> <li>62% of units will be naturally cross-ventilated.</li> </ul>
<b>2.24 Building Services</b> <ul style="list-style-type: none"> <li>Services occupying up to 20% of the roof may project above building envelope, and</li> <li>Must have a min 2m setback from the building edge</li> </ul>	Yes Yes Yes Yes Yes  Yes	<ul style="list-style-type: none"> <li>Building A = 13%</li> <li>Building B = 5%</li> <li>Building C = 5%</li> <li>Building D = 7%</li> <li>Building E = 12%</li> </ul> <p>All plant areas are surrounded by a parapet wall which, on all buildings, is greater than 2m from the building edge, with the actual plant being even further.</p> <p>On all buildings, with the exception of Building C which is discussed in the 'Issues' section of this report, the height of the plant and associated parapet does not exceed the height controls imposed by the LEP.</p>

The Applicant's Statement of Environmental Effects outlines that the subject development has been designed with regard to the SEPP 65 Residential Flat Design Code (RFDC). Waverley DCP 2012 has similar controls to the RFDC 'Rules of Thumb' however in some instances the controls vary. In these cases the provisions of the RFDC are considered to have greater weight and take precedence over the DCP controls.

## ISSUES

### Height

The LEP stipulates maximum heights of 12.5, 20 and 28 metres over the site. The proposed development will comply with, and in most cases is slightly under, the relevant maximum height controls for each particular part of the site. The exception to this is Building C in the north eastern corner of the site. The roof top plant of this building will exceed the 12.5m height control by 1.2 m.

The applicant has provided an 'Exception to a Development Standard' under Clause 4.6 of the LEP which assesses the non-compliance against the objectives of the height controls of the LEP. Generally, the Applicant's justification to exceed the height control can be summarised as follows:

- The development will make a significant contribution to local housing stock providing a range of sizes to assist in meeting the housing needs of the community in accordance with the height objectives of the LEP.

- The additional 1.2m is to accommodate the lift overrun and cowls to cover bathroom exhaust risers will not diminish the amenity of surrounding properties by way of additional overshadowing impacts and view obstruction.
- The building remains compatible with the height, bulk and scale of the existing character of the locality.
- The additional 1.2m will not be a prominent feature when viewed from the public domain.

The LEP states that the consent authority must be satisfied;

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

The Applicant's arguments are considered sound and the minor height variation is not inappropriate given the limited impact upon surrounding properties and the streetscape. The variation to the height control is therefore supported.

For indicative purposes, the table below provides a comparison between the LEC approval and the proposal comparing relative levels (RL) to accurately ascertain the true heights of buildings:

BUILDING	LEC APPROVAL	PROPOSED DA
<b>BUILDING A: OCEAN STREET</b>	<ul style="list-style-type: none"> <li>• 10 storeys</li> <li>• RL 108.50 (parapet to main roof)</li> <li>• <b>RL 110.60</b> (plant)</li> </ul>	<ul style="list-style-type: none"> <li>• 8 storeys</li> <li>• RL 101.05 (parapet to main roof)</li> <li>• <b>RL 102.3</b> (plant)</li> </ul>
<b>BUILDING B:</b> There is no separate building as part of LEC DA – However a comparison is made against the lower portion to the rear of Building A	<ul style="list-style-type: none"> <li>• 4 storeys</li> <li>• <b>RL 89.60</b> (max)</li> </ul>	<ul style="list-style-type: none"> <li>• 2 storeys</li> <li>• RL 82.7 (parapet to main roof)</li> <li>• <b>RL 83.75</b> (roof plant)</li> </ul>
<b>BUILDING C: WELLINGTON STREET</b>	<ul style="list-style-type: none"> <li>• 4 storeys</li> <li>• RL88.55 (main roof)</li> <li>• Plant 1.9m above (no RL specified) – <b>RL90.45</b></li> </ul>	<ul style="list-style-type: none"> <li>• 4 storeys</li> <li>• RL 88.08 (parapet to main roof)</li> <li>• <b>RL89.03</b> (plant)</li> </ul>
<b>BUILDING D: WELLINGTON STREET</b>	<ul style="list-style-type: none"> <li>• 6 storeys</li> <li>• RL96.55 (roof parapet)</li> <li>• <b>RL99.85</b> (plant at rear)</li> </ul>	<ul style="list-style-type: none"> <li>• 6 storeys</li> <li>• RL 95.05 (parapet to main roof)</li> <li>• <b>RL 96.2</b> (plant)</li> </ul>
<b>BUILDING E:</b> LEC consent – this was part of Building D as an L-shaped building	<ul style="list-style-type: none"> <li>• 5 storeys</li> <li>• <b>RL92.2</b> (roof)</li> </ul>	<ul style="list-style-type: none"> <li>• 6 storeys</li> <li>• 95.45 (parapet to main roof)</li> <li>• <b>RL96.2</b> (plant)</li> </ul>

The DCP provides controls relating to height including the number of storeys within certain zones. These controls, which do not apply to Buildings B and C, are outlined in the table below:

Building	Overall Height	External Wall Height	Max number of Storeys
A	28m	25m	8
D	20m	17m	5
E	20m	17m	5

Building A, at eight storeys with a maximum wall height of 25m, is compliant with the DCP controls. Buildings D and E exceed the maximum number of storeys and the wall height control. In terms of wall height, both buildings have a wall height of 19m however it should be noted that the ground levels are being lowered by up to 1.5 metres below the existing ground level. In this regard, the wall height above **existing** ground level would be closer to the DCP control.

Buildings D and E are both under the maximum height control of the LEP (including roof plant) and both have compliant floor to ceiling heights. With a 20m height control, a six storey building is capable of being constructed. In this regard, the five-storey maximum control does not marry with the maximum height control. A five storey building could have the same overall height, being within the maximum of the LEP, just with higher floor to ceiling heights. A six storey building would achieve a greater density and given the zoning is a high density zone, the provision of a greater number of units is considered more desirable than high ceilings.

Furthermore, Clause 30A of SEPP 65, does not allow a consent authority to refuse residential flat development based on ceiling heights if the proposed ceiling heights for the building are equal to, or greater than, the minimum recommended ceiling heights set out in Part 3 of the RFDC. The proposal meets the minimum 2.7m ceiling heights on all floors and as such, Council cannot require that these ceiling heights be increased to accommodate only 5 storeys within the height limit.

Given the above analysis it is considered that six storeys for Buildings D and E are acceptable.

### ***Heritage Conservation***

The site is occupied by a number of buildings set within the former grounds of Scarba House, a Victorian two storey grand residence constructed in the 1880's and incorporating an earlier Victorian Georgian form residence constructed in the 1850's. Other buildings on the site are of mid to later 20<sup>th</sup> Century construction.

Scarba House and surrounding grounds are listed as an item of local heritage significance in Schedule 5 of the Waverley Local Environmental Plan 2012.

The application proposes demolition of all buildings on the site with the exception of Scarba House which is proposed to be adaptively reused under a future development application as a single residence.

The original and amended proposal were reviewed by Council's Heritage and Urban Design Architect and the following recommendations were provided to the amended scheme:

- i) *The previous recommendation that visual links to the overall site be improved by provision of a substantial opening through the lower levels of the east - west apartment building have in part been addressed by provision of a walk through*

- opening at ground floor. This is shown open on the floor plan but enclosed by a glazed screen on the montage. It needs to be clarified that this is an unobstructed opening.*
- ii) The proposed treatment of Scarba House still appears to promote an all white exterior having no relationship to the original finishes of the building. Conservation of Scarba House should include investigation of paint finishes and provision of an historically based colour scheme to the exterior and clear interpretation of original interiors including elements of the original 1850's single storey residence at the core of the current building.*
  - iii) The scale and proximity of the adjacent building to the east of Scarba House continues to detract from the scale and Victorian Italianate form of Scarba House. The rise of apartments in Building C closest to the original house should be deleted to provide a clear sightline along the eastern side of Scarba House to the Park beyond. In addition the top floor of Building C should be set back on all elevations at a minimum the extent to which it exceeds the height of the Scarba House gutter/eaves line.*
  - iv) The previously recommended treatment of the boundary fence line to Dickson Park as metal pickets rather than strip timber or other solid opaque construction is maintained. These should provide a high degree of transparency and not be set at close spacing or with angled sight lines.*
  - v) There continues a need for a clear reading of the historic entry to the site and its retention as a principle entry to the site. New entry points should remain visually separate to the original gates and reflect the form and scale of the original entry.*
  - vi) Established tree planting in Dixon Park is to be maintained and enhanced by boundary planting to the northern boundary of the site. Trimming of trees for view enhancement is not to be permitted.*
  - vii) Signage and area lighting throughout the site should be set apart from existing boundary fencing and the fabric of Scarba House.*

The above comments form the basis of recommendations for conservation of the setting, built fabric and interpretation of Scarba House and grounds. The proposed future development application for Scarba House will be assessed separately and it is at this time that the external colours scheme of Scarba House can be enforced. A condition requires that no works, apart from the demolition of the structures detailed under this application, is permitted under the current application.

In regards to criteria iii) which requires increased setbacks from Scarba House for Building C, during assessment of the application, the approval of the LEC for the Benevolent Society was also noted. The issue of increased setbacks from Scarba House for Building C was raised during this appeal and the court favoured the applicant and allowed a reduced curtilage to this building. The Benevolent Society consent allowed a two storey structure to the rear of Scarba House and a minimal setback between this and Building C. Additionally, the currently proposed Building C has a similar footprint to the previously approved Building C.

The amended proposal has provided a set down on the southern side of Building C to the eaves level of Scarba House. This was to allow increased views through to Scarba House from Wellington Street and the public domain. This amendments is considered appropriate to ensure a sufficient curtilage to this building and given the previously approved cartilage by the LEC, the recommendations of criteria iii) by Council's Heritage and Urban Design Architect are not supported. All other recommendations are agreed and included as conditions of consent.

## **Transport and Parking**

The original scheme has been substantially amended since it was first submitted in response to the recommendations of Council's Traffic Committee. The original scheme provided only vehicular entry from Wellington Street and vehicular entry and exit from Ocean Street, provided 171 car spaces including only 10 visitor spaces, a one way underground link between the two car parks and servicing and garbage loading facilities at grade on Ocean Street. The following amendments have been made to the original scheme:

- Vehicular entry and exit be provided on both Ocean Street and Wellington Street.
- 221 car spaces provided in two double level car parks under Buildings A, D and E providing 173 resident spaces, 45 visitor spaces and 3 car share spaces.
- A two-way traffic light system to the underground link between the car parks.
- The provision of garbage collection from within the underground car park of Building A including a truck manoeuvring turntable to allow service vehicles to enter and leave the site in a forward direction. (note: garbage collection for Building C is sought separately from Wellington St).
- A loading space within the car park under Buildings D and E.

The proposal will provide two car parks linked via a 'single lane link' between Buildings A and D (underground). The number of resident spaces proposed exceeds the maximum permitted by the DCP by 24 spaces. However, Council is in the process of reviewing the parking controls of the DCP and the proposal will not exceed the proposed (draft) new maximum rates. Although the DCP amendment has no planning weight and does not technically apply to the subject development, given the degree of public concern regarding the parking provision and the lack of on-street parking in the area, the higher parking rate is considered acceptable in this instance and is supported.

The provision of vehicular entry and exit from both Wellington Street and Ocean Street was considered necessary to ensure that vehicular movements from the development are evenly spread over the two streets. Ocean Street has traffic lights at the intersection of Bondi Road whereas Wellington Street does not, indicating that the majority of traffic movements making a right turn (west) onto Bondi Road (towards Bondi Junction and the City) will take place from Ocean Street and those heading towards the east (to beach and Bondi) will take place from Wellington Street. Concentrating all traffic exits onto Ocean Street was considered to be excessive and likely to unreasonably increase traffic and congestion on Ocean Street. To ensure that there is limited conflict with the schools within Wellington Street, the entry and exit to Wellington Street will be 'left in, left out only' enforced through the installation of a median island on Wellington Street.

A Traffic and Parking Report by 'Parking and Traffic Consultants' was submitted in support of the application and Council subsequently initiated a 'peer review' of this document by GTA Consultants. Both traffic reports concluded that the proposed traffic and car parking arrangements are considered to be appropriate for development at this site and are consistent with the objectives and controls set out in relation to transport in DCP 2012.

The applicant has also submitted a subsequent addendum to the original traffic report in support of the amended plans. This report concludes that:

*"The assessment of traffic activity has established that the development is likely to result in a slight increase in traffic activity when compared to the existing conditions. However, the intersection modelling for the future scenario indicates that the intersections within the vicinity of the site will continue to operate similar to the existing conditions. In this regard*



*the increased traffic activity is unlikely to result in any detrimental impacts on the overall operation of surrounding road network.”*

Given that the site is located within a high density zone (Parking Zone A) within proximity of Bondi Junction, Bondi Road commercial area and public transport routes (buses), the site is ideally located for reduced parking provision. However given the amount of objection received relating to traffic and parking and the concerns raised by the community, the proposal has been amended to increase the number of parking spaces provided on site.

To ensure the allocation of residential spaces occurs in line with Council’s DCP, a maximum of 2 car spaces shall be allocated to any residential dwelling (including Scarba House dwelling), to ensure equitable allocation overall. A condition to this effect is included in the ‘Recommendation’.

The traffic and parking impacts of the amended development are not considered unreasonable given the zoning, proximity of the site to public transport and services and the amount of car parking provided with the development.

### ***Excavation***

#### **Building A:**

The majority of the excavation is set more than 2.5m from a boundary except for a small part of the basement where it adjoins Dickson Park on the northern boundary where it is reduced to nil and 815mm. Appropriate conditions are included within the Recommendation relating to excavation and the minor non-compliance is not considered significant to warrant amendment of the application.

#### **Buildings C & D:**

Parts of the basement will be built up to the boundaries of the site including a small part on the western boundary adjacent to, and within, the access handle from Ocean St. Additionally the basement will be built up to the southern and eastern boundary of the site along the shared boundaries with No. 22 Wellington Street.

The basement car park has been set back from the central park and Allee to ensure appropriate separation from the roots of significant trees which are to be retained. This requires that the basement car park be set further to the south of the site, up to the boundary with No. 22 Wellington Street. Given the need to retain appropriate set backs from tree root zones, that the building on No. 22 Wellington Street is a considerable distance from the boundary and appropriate conditions relating to excavation are included within the Recommendation, the setbacks of the basement car park are considered acceptable.

### ***Setbacks***

#### **Building A:**

Building A does not comply with the side setback controls of the DCP. At ground level Building A is set back a minimum of 5.4m from the northern boundary and 3.3m from the southern boundary. The upper levels vary from 5.4 – 10 metres from the northern boundary and 7.7 – 12.8 metres from the southern boundary. The DCP requires a minimum side setback of 6 metres.

The variation to the side setback on the southern side of the building at ground floor level is to the car park entry only. This is a single storey structure at the ground level only with the main building being more than 11m from this boundary at this point. The minor non-compliance will not have detrimental impacts upon adjoining properties with the main bulk of the building being well in

excess of the minimum controls. The upper levels are all well in excess of the minimum requirement from the southern boundary, seeking to ameliorate overshadowing impacts and improve solar access. Accordingly the side setback of Building A from the southern boundary is considered acceptable.

In regards to the northern side boundary setbacks, the front portion of the building will not comply with the minimum control by 600mm. The rear part of the building is in excess of the minimum and on average the building will provide more than the requirement. The setback non-compliance is marginal, is not out of character with the street and will not result in increased overshadowing being on the northern side of the site. Privacy impacts are discussed later in the report including measures recommended by condition to ameliorate any impact on the adjoining northern building. Accordingly the northern boundary setback, on balance, is also considered acceptable.

#### Building C:

This building will have a minimal setback from Wellington Street and is not consistent with the predominant street setback. The northern side setback is 4.8 metres rather than the minimum 6 metres as required by the DCP.

This building is located in the north-eastern corner of the site with frontage to Wellington Street and Dickson Park. The building has been designed to present a strong street presence on this corner with minimal setbacks addressing both Wellington Street and the Park. The reduced setbacks will not be detrimental to adjoining properties given that there are no surrounding buildings.

#### Buildings D & E:

The setbacks of Building D and E are considered appropriate.

### ***Building Separation***

#### Building A:

Building A, located on Ocean Street, has insufficient separation from No. 16 Ocean Street, located to the north of the site being 8-14 metres when the DCP requires 18 metres.

The intent of the building separation controls is to provide visual and acoustic privacy for residents and to ensure that new development is scaled to maintain the desired character of the area with appropriate massing and spaces between buildings.

The amended proposal has increased side boundary setbacks for Building A from both the north and the southern boundaries, however a greater setback was incorporated on the southern side to decrease overshadowing of the adjoining building (No. 24 Ocean St). As such, the proposal has more than adequate separation from the adjoining building to the south, however insufficient separation from the building to the north.

Visual and acoustic privacy is discussed in a subsequent section of this report. A number of conditions relating to privacy measures are recommended due to the inadequate separation distance between Building A and No. 16 Ocean Street, to the north. Subject to these conditions being imposed, it is considered that the proposal will not have a detrimental or unreasonable impact upon the privacy of No. 16 Ocean Street.

In terms of appropriate massing and spaces between buildings, Building A has been amended to be narrower at the street front with greater side boundary setbacks to be more consistent with

surrounding high density development. The built form and massing of the proposal is generally consistent with surrounding development and is supported.

#### Building E:

Building E provides the required separation distances from all surrounding buildings with the exception of the building to the east at No. 22-28 Wellington Street and to the west at 26 Ocean Street.

On the eastern side of the building, the area of non-compliance is confined to the south-eastern corner where the balconies have been angled to the north-east to create additional solar access. The required separation distance is 18 metres and the proposal provides a minimum of 15.4 metres. It is worth noting that only this corner of the building does not meet the minimum separation distance with the remainder of the building providing more than the required 18 metre separation. Given the nominal nature of the non-compliance and that the non-compliance is only to one small balcony on each level which is accessed from a bedroom, the variation is considered acceptable.

On the western side the required minimum separation distance is 18 metres from No. 26 Ocean Street when the proposal provides only 15.6 metres. Again, the non-compliance is confined to only a corner of the building, being the north-western corner, where the balconies are opposite the balconies of No. 26 Ocean Street. Again, the remainder of the building meets the minimum separation distance requirements of the DCP.

The area of non-compliance is a small balcony on each level with the main living area window being located off-set from the opposing balconies at No. 26 Ocean Street. The balconies also include a solid blade wall on the northern side further ensuring cross viewing between balconies is minimised. These measures are considered appropriate to ensure no unreasonable acoustic and visual privacy impacts.

Building E is located centrally on the site, with no actual street frontage. The massing and separation distances of this building are considered appropriate.

Given the analysis of Buildings A and E above, it is considered that the variation to the separation distance controls are minor and appropriate privacy measures to ameliorate impacts have been included within the design or will be required by condition. The buildings are considered to be appropriately located to ensure consistency with the emerging character of the area.

#### ***Private Open Space***

There are a number of units with balconies which do not meet the minimum size requirements of the DCP being a minimum 2.5m depth and 10m<sup>2</sup> in area. It is noted that the RFDC requires a minimum depth of 2m for balconies with no minimum area specified.

Although there are a number of balconies which do not meet the minimum DCP control for depth, the vast majority meet the minimum requirement of the RFDC. Those balconies which do not meet the minimum area requirements are confined to the one-bedroom units located in the mid-floor plates.

The proposed development is unique in that it provides a substantial area on the site for communal open space in the Scarba House forecourt park. The proposal provides almost double the amount of communal open space on site than that which is required under the DCP. The forecourt park will

be semi-public however there is also a communal landscaped courtyard between buildings D and E which is not publically accessible.

Given the above analysis, it is considered that although the size of some balconies is substandard, the development site provides substantial parks and courtyards to ensure there is adequate outdoor space for residents. Each unit has a balcony accessed from living areas for private outdoor space which is considered sufficient to meet user needs given the more than adequate communal parks.

### **Overshadowing**

During assessment of the previous application for the Benevolent Society, the Commissioner considered the overshadowing impact of the development upon surrounding buildings and formulated planning principles regarding access to sunlight. The planning principle is cited in *The Benevolent Society v Waverley Council [2010] NSWLEC 1082* and it is certainly appropriate that the current application should be assessed against these principles.

The planning principle is comprised of seven questions to be asked when considering access to sunlight resulting from new development. The following questions are listed along with planning comments in regards to the current application:

- i) *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- ii) *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- iii) *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- iv) *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- v) *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- vi) *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*
- vii) *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

The density of the site and surrounds is dictated by the FSR and height controls of the LEP. The proposal complies with the maximum FSR for the site and maximum heights (with the exception of Building C plant area discussed previously). The area is characterised by high density residential development. The density of the area is considered such that sunlight is not provided to all dwellings or areas of open space. Therefore it is not considered a reasonable expectation that sunlight access would be retained to all surrounding properties.

The proposal generally satisfies the numerical guidelines of the LEP, DCP and SEPP 65. The proposed development is of a high quality design, and has sought to retain as much sunlight access to adjoining dwellings as possible. The development is considered to be suitable in the high density context.

It should be noted that during the Benevolent Society assessment by the Commissioner of the LEC, the heights of each building were determined based on overshadowing impacts and the likely height controls that would be applicable based on surrounding densities (given that the site was, at that stage, not zoned for high density development). The height of Building D was reduced substantially due to the overshadowing impacts upon No. 22-28 Wellington Street as part of that assessment. The rezoning of the site took into account the approval of the LEC and the height and FSR controls were formulated based on this previous consent. The current proposal does not seek to provide buildings which are any higher than the previous approval and/or the LEP controls (with the exception of Building C plant outlined previously). In this regard, the overshadowing impacts of a very similar proposal on the site have already been considered by the LEC and found to be acceptable.

Council Officers used Council's 3D modelling program to compare the overshadowing impacts of the LEC approval and the amended proposal upon the facades of immediately adjoining buildings. The modelling indicates that the overshadowing by the previous LEC approval, in most cases, is greater than the overshadowing of the subject proposal. There are instances where the overshadowing is marginally increased in relation to the overshadowing from Building E which is a storey higher than the LEC approval. However it is considered that overall, the additional overshadowing to some adjoining buildings is offset by the reduced overshadowing at other times to other surrounding buildings. It is also noted that Building E complies with the height control of LEP 2012 and as such overshadowing from a building which is a compliant height is not considered to be unrealistic or unreasonable.

In summary, the proposal complies with the FSR and height controls contained within the LEP and generally complies with the DCP and SEPP 65. Accordingly, any overshadowing impacts upon surrounding properties, are not considered to be unacceptable which is consistent with the determination of the LEC (and subsequently the planning principles formulated during that appeal) during the assessment of the previous Benevolent Society approval.

### **Views and View Sharing**

The NSW Land and Environment Court has articulated general principles with regard to views (see *Tenacity Consulting v Warringah Council [2004] NSWLEC 140*). This case states:

*The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.) To decide whether or not view sharing is reasonable, a four-step assessment should be used:*

- i) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*
- ii) The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*
- iii) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*
- iv) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

An assessment of the impact of the amended plans on the views obtained from various properties has been undertaken having regard to the four steps above. A number of buildings within the vicinity of the site have views that will be impacted by the development. Although some properties principally have district or landscape views, there are units with views of Bondi Beach and the land water interface, there are other units with partial views of Sydney Harbour and surrounding foreshores, whilst some units have views to Bondi Junction skyline or general ocean views.

All view assessment has been undertaken from a standing position. The properties assessed have views from living areas and living area balconies, including kitchens. It is also noted that views are generally obtained from level 5 or higher of adjacent development due to the impact of existing trees on lower level units.

As stated previously in this report, during the assessment of the Benevolent Society application by the Commissioner of the LEC, the heights of each building were determined based on impacts and the likely height controls that would be applicable based on surrounding densities (given that the site was, at that stage, not zoned for high density development). The subsequent rezoning of the site took into account the approval by the LEC and the height and FSR controls for surrounding development to some extent. The current proposal does not seek to provide buildings which are any higher than the previous approval and/or the LEP controls (with the exception of Building C plant outlined previously). In this regard, the view impacts of a very similar proposal on the site have already been considered by the LEC and found to be acceptable.

The assessment from within adjoining and adjacent units has been principally undertaken from living rooms or balconies off living rooms or from kitchens which are considered the main areas of a dwelling, and from a standing position. Many units will lose highly valued views of Sydney Harbour and the Ocean with some also experiencing loss of the views of Bondi Beach and its interface with the water. The subject proposal satisfies the FSR and height controls of the LEP and largely complies with both SEPP 65 and the DCP controls. Furthermore, the views from some buildings are obtained over a side boundary.

Notwithstanding the above, there is an opportunity for improvements in view loss from some of the surrounding properties through a minor alteration to the roof levels of Buildings A, D and E. Each of these buildings have roof top plant areas with high parapet walls surrounding. The parapet walls extend to within the views of some surrounding units and are not a necessary part of the building. The parapets are largely to obscure views of the roof plant from surrounding properties and from the street. Given that the plant areas are set back from the roof edge, the parapet screening would not be required as views from the street or from the ground would be restricted. As such, the parapets are considered unnecessary especially where there may be improvements in views from surrounding properties if they were to be reduced. It is noted that the roof area contains plant and due to access for maintenance workers and the like a balustrade may be required. However a 1.8m high wall is considered excessive and unnecessary. Accordingly a condition requiring that the height of the parapets around the roof areas of Buildings A, D and E be reduced from 1.8m to 1m and constructed of transparent glazing is included within the 'Recommendation' section of this report.

On the issue of views alone it is considered having regard to the Planning Principles that the application could not be refused, especially given that the LEC has granted consent to a development with similar building heights and similar view impacts and that the subject proposal is not an unreasonable development for the site. It cannot be expected that in a high density zoning, a site will remain undeveloped for the enjoyment of surrounding high density development. The proposal is not an unreasonable development for the site and as such, the view impacts are considered acceptable.

### **Visual Privacy and Security**

The proposal has been considered against the planning principle relating to visual privacy established in *Meriton v Sydney City Council* [2004] NSWLEC 313 and the DCP controls. The principles that are most relevant to the current application are as follows:

- (i) *The ease with which privacy can be protected is inversely proportional to the density of development. At low-densities there is a reasonable expectation that a dwelling and some of its private open space will remain private. At high-densities it is more difficult to protect privacy.*
- (ii) *Privacy can be achieved by separation. The required distance depends upon density and whether windows are at the same level and directly facing each other. Privacy is hardest to achieve in developments that face each other at the same level. Even in high-density development it is unacceptable to have windows at the same level close to each other. Conversely, in a low-density area, the objective should be to achieve separation between windows that exceed the numerical standards above.*
- (iii) *The use of a space determines the importance of its privacy. Within a dwelling, the privacy of living areas, including kitchens, is more important than that of bedrooms.*

*Conversely, overlooking from a living area is more objectionable than overlooking from a bedroom where people tend to spend less waking time.*

- (iv) Overlooking of neighbours that arises out of poor design is not acceptable. A poor design is demonstrated where an alternative design, that provides the same amenity to the applicant at no additional cost, has a reduced impact on privacy.*
- (v) Where the whole or most of a private open space cannot be protected from overlooking, the part adjoining the living area of a dwelling should be given the highest level of protection.*
- (vi) Apart from adequate separation, the most effective way to protect privacy is by the skewed arrangement of windows and the use of devices such as fixed louvres, high and/or deep sills and planter boxes. The use of obscure glass and privacy screens, while sometimes being the only solution, is less desirable.*
- (vii) Landscaping should not be relied on as the sole protection against overlooking. While existing dense vegetation within a development is valuable, planting proposed in a landscaping plan should be given little weight.*
- (viii) In areas undergoing change, the impact on what is likely to be built on adjoining sites, as well as the existing development, should be considered.*

The density of the site and surrounds is dictated by the FSR and height controls of LEP. The area is characterised by high density residential development. The density of the area is considered such that it cannot be expected that absolute privacy will be retained to every dwelling.

A number of measures are proposed to ensure privacy is retained, including orientating apartments to avoid direct overlooking, as well as using privacy screens and louvres where necessary. Landscaping is not being relied upon as the sole protection measure against overlooking however, existing trees will be used to support built form mechanisms at the interface between Building E and 22-28 Wellington Street.

Many of the surrounding sites have already been developed for high density residential development. Any future redevelopment of the sites would retain the high density character of the area.

Separation distances from surrounding buildings and within the development itself, are considered sufficient to ensure privacy impacts are minimised. The exception to this is the separation between Building A and No. 16 Ocean Street to the north. These buildings will have insufficient separation, being in the order of 8-14 metres when the DCP requires 18 metres. Additionally, No. 16 Ocean Street is a four-five storey building with bedroom and secondary living area windows on the opposing southern elevation. Due to the staggered side setback of Building A from the northern boundary at the rear of the building, the separation distance is considered sufficient for the rear five storey portion of No. 16 Ocean Street. However the front part of Building A has a limited side boundary setback and has extensive glazing to living areas and kitchens orientated toward No. 16 Ocean Street. To mitigate any privacy impacts a condition is included within the 'Recommendation' requiring that the first four levels of Building A have fixed privacy screening or obscure glazing to the living and kitchen windows of the front northern side units.

Given the above analysis, and subject to the recommended revision to Building A, it is considered that the proposed scheme responds appropriately to adjoining properties, whilst optimising amenity on the site and will not have detrimental impacts upon the visual and acoustic privacy of adjoining properties, given the high density nature of the locality.



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

The proposed development is capable of complying with the BCA.

It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

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

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

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

The original application was notified, advertised and a site notice erected for 28 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Eighty-two (82) submissions were received.

The amended application was notified for 14 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Thirty-two submissions were received.

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

### ***Issue:***

- ***Loss of views, vistas and outlook.***
- ***Visual and acoustic privacy.***
- ***Traffic and parking.***
- ***Overshadowing.***
- ***Separation distances and setbacks.***
- ***Heritage conservation (Scarba House).***
- ***Removal of trees and impact of works on existing trees.***
- ***Excessive height and density (FSR).***
- ***Does not comply with the DCP (specifically wall height and number of storeys).***

***Response:*** These issues have been discussed, in detail, previously in this report.

### ***Issue: Density and number of units proposed.***

***Response:*** The proposal complies with the maximum FSR control for the site. The unit yield is determined through compliance with certain controls such as height, FSR, minimum unit sizes, provision of a range of unit size, car parking, private open space, floor-to-ceiling heights etc. Council required that the proposal be amended to, among other things, reduce the FSR, improve internal amenity and increase setbacks which resulted in a reduction in the number of units.

The amended proposal is now generally compliant with the relevant controls and as such it is not considered appropriate to require that the unit yield be further reduced.

***Issue: Loss of light and light spillage at night.***

***Response:*** There are sufficient setbacks and separation distances between buildings on the subject site and neighbouring properties to ensure that loss of light and light spillage is not unreasonable.

***Issue: The development is not the same as the previous LEC approval; the development should not utilise the previous LEC approval as this provided a social benefit.***

***Response:*** The development has been assessed having regard to the controls for the site with consideration of the previous LEC approval. The LEC development is relevant to the assessment as the impacts of the LEC approval are similar to the current development application and these impacts have already been considered in the LEC. Additionally, the planning controls for the site were formulated with regard to the previous approval.

Although the LEC consent had a greater social benefit than the subject proposal by providing an aged care facility, the zoning of the site is for high density residential development which is exactly for what development consent is sought. The proposal complies with the density and height controls of the DCP and is considered appropriate regardless of the social benefit or lack thereof. It is also worth noting that due to the social benefit of the previous approval, an additional two levels were allowed on the Ocean Street building and another two levels to the rear of the Ocean Street building (in location of Buildings A and B). It was due to this benefit that these levels, beyond the planning controls, were considered appropriate. The current application does not seek to gain consent for those parts of the previous approval that were granted by the Commissioner due as a consequence to the provision of a public benefit.

***Issue: Impacts during construction and excavation.***

***Response:*** Appropriate conditions are included within the Recommendation.

***Issue: The character of the area is defined by the existing buildings on the site – high rise development is not in keeping with the area.***

***Response:*** The surrounding area is characterised by high density development. The zoning and the controls allow high density development. The subject site is part of the broader area and does not, in itself, represent the defining character of the precinct. The character of the precinct is one of high density development with which this proposal is consistent.

***Issue: Loss of property value.***

***Response:*** This is not a planning issue/consideration.

***Issue: Construction traffic would be dangerous around the schools on Wellington Street.***

***Response:*** A condition is included within the 'Recommendation' and as recommended by Council's Traffic Committee that there be no truck movements on Wellington Street during school drop-off and pick-up.

***Issue: The pedestrian through-site link should allow vehicles.***

***Response:*** It is considered that the through-site link should be for pedestrian access only, providing a park and gathering area, free of cars and traffic, for the use of the residents and the community.

Vehicles and roads should not dominate the urban landscape and pedestrian environment that this proposal seeks to create within the forecourt park of Scarba House.

***Issue: Loss of privacy from the use of the walkway (the Allee).***

**Response:** The through-site link will provide a pedestrian link from Ocean Street to Wellington Street during the day for the public. At night this area is to be closed, via gates, restricting access to the general public. The use of a pathway by pedestrians is not considered to create such adverse impacts upon adjoining properties as to require its deletion from the proposal. The generation of activity and use of parklands creates an active, interesting urban environment and increases security within the area. The impacts upon the privacy of adjoining properties are not considered unreasonable.

***Issue: Impact upon public transport of additional people living in the area – the buses are already at capacity.***

**Response:** The site is located within a high density zoning where high density development is considered appropriate given the site's proximity to public transport and within walking distance of Bondi Junction. Additionally the majority of units within the development will be provided with a car parking space. Residents will be able to walk, cycle, use public transport or drive to their required destinations. Given the variety of transport choices available, it is considered that the impact on the public transport system will not be detrimental.

***Issue: Lack of information regarding impacts upon surrounding properties. Inaccurate statements within the documentation.***

**Response:** Sufficient information has been provided for Council staff to assess the application.

***Issue: The placement of buildings restricts the prevailing breezes.***

**Response:** There will be sufficient separation between buildings to ensure that breezes are not adversely impacted.

***Issue: The site was not owned by the Benevolent Society (99 year lease) so how were they able to sell it?***

**Response:** Council has been provided with evidence that the site is now owned by Mirvac Projects Pty Ltd. Details of the sale are not relevant to the assessment of the application and Council had no part in the sale of the properties.

***Issue: The plans are conflicting in that they show two different maximum RL's for Building E.***

**Response:** A condition is included within the 'Recommendation' requiring that the maximum height is restricted to the lesser RL of 96.2.

This issue is also the case with Buildings A and D a condition will be imposed requiring the maximum height is restricted to the lesser RL of 102.3 and RL of 96.2 respectively.

**Issue:** Existing sewerage capacity is inadequate – extra people could result in public health issues.

**Response:** The developer will be required to consult with the appropriate service providers and comply with their requirements. A condition to this effect is included within the 'Recommendation'.

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

It is considered that the proposal will have no detrimental effect on the public interest, subject to appropriate conditions being imposed.

## 3. REFERRALS

### Internal Referrals:

The application was referred to the departments within Council listed following. Summaries of responses received are provided below (copies of full referrals available on file):

- **SEPP 65 Panel:** Refer to previous section of this report for detailed comments.
- **Technical Services – Stormwater:** Conditions were provided which are included within the 'Recommendation'.
- **Waste Management Officer:** The waste management and storage is appropriate subject to conditions that are included within the 'Recommendation'.
- **Manager, Transport and Development:** The amended application has been reviewed and considered appropriate subject to conditions that are included within the 'Recommendation'. Such conditions also account for the comments received from Council's Traffic Committee.

However, it is noted that an issue was raised in regards to the kerbside collection of waste bins from Building C and Scarba House from Wellington Street, particularly when all other buildings associated with the development will have bins collected from the 'waste holding room' below Building A (ie wholly on-site). This was considered inappropriate due to lack of available kerbside space for bins due to heavy on-street parking demand on Wellington Street.

**Planning Comment:** A condition is included within the 'Recommendation' requiring that all bins from all buildings within the development are collected beneath Building A reducing impact upon the street and on-street parking. Additionally, this will have the added benefit of removing the need to make an opening in the sandstone wall on Wellington Street, improving the streetscape appearance of the development and impact upon the heritage aspects of the site.

- **Heritage Architect:** The comments of Council's Heritage Architect have been previously discussed in this report. Relevant conditions are included within the 'Recommendation' section of this report.
- **Urban Design Officer:** The Urban Design Officer has been involved in the assessment since the original scheme. Recommendations made were incorporated into the deferral matters including the provision of articulation to Building D and reduction in bulk to Building C. A

number of concerns were raised in regards to articulation, streetscape presence, access for service vehicles, response to adjoining heritage items and providing direct access for courtyards to Dickson Park. Agreed issues are considered to be addressed by the amended plans.

**Planning Comment:** Concern was raised regarding the through-site links and that they should be ungated and accessible 24 hours a day. This issue has been previously discussed in this report and it is considered that, for security reasons, the through-site links should be able to be closed at night restricting public access. A condition is included in the 'Recommendation' requiring that the links be open during daylight hours.

- **Tree Preservation Officer:** The proposal includes the removal of numerous trees from the site and as such was referred to Council's Tree Preservation Officer (TPO). The TPO raises no objection to the removal of the majority of the trees with the exception of three trees that will be located within the communal courtyard between Buildings D and E. A condition requiring the retention of these trees is included within the 'Recommendation' section of this report. In terms of the remaining trees to be removed, a condition will require that they are to be replaced with a local native tree of minimum container size of 75 litres. Other tree protection conditions are also included within the 'Recommendation' section of this report.
- **Strategic Tree Planning Officer:** Three street trees are to be removed as part of this application. Council's Tree Planning Officer raises no objection to the removal of these trees as they are of low ecological value and not in good condition at the time of inspection. Conditions for replacement trees are included in the 'Recommendation'.
- **Biodiversity Officer:** The proposed development is in a habitat corridor as defined in the Waverley DCP. This habitat corridor links Thomas Hogan Reserve, Dickson Park and Waverley Park. There is currently significant canopy cover along this corridor such as Ocean St North and on the subject site. The landscaping plan does not adequately demonstrate that 50% of new plantings will be local native species. Accordingly a condition to this effect is included within the 'Recommendation' section of this report.
- **Open Space Planning Officer:** Advice was provided to the original scheme that generally works to the park for the purpose of providing access to a private development would not be supported. Additionally, any private access, from either private courtyards or through-site links, opening out to the park would not be supported.

**Planning Comment:** The applicant has advised that the works to Dickson Park outlined within the original scheme (original plans had a pathway along the southern side of the Park from the northernmost through-site link to Wellington Street) will no longer be pursued.

In terms of the links and private courtyards opening out to Dickson Park, the SEPP65 Panel, Council's Urban Design Officer and Council Planners recommended that these elements be retained in the proposal as it provides access to the park and activity within. The gates opening out into the park create a 'sense of ownership' and ultimate care for this public space, which at present is underutilised. These elements of the application will also enhance the security within the park through passive surveillance and ultimately greater use. Accordingly, the through-site links to the park and the private courtyards opening to the park have been retained in the amended proposal and are supported.

- **Land Information Officer:** Conditions have been provided which are included within the 'Recommendation' section of this report.
- **Environmental Health Surveyor:** Conditions have been provided which are included within the 'Recommendation' section of this report.

#### **External Referrals:**

**NSW Police:** NSW Police have provided a number of general recommendations in regards to high density development and mixed use development. Many of these recommendations do not specifically apply to the subject development (as it does not provide a retail element) however those that do apply have been formulated into conditions, contained within the 'Recommendation' section of this report, if necessary.

#### **4. SUMMARY**

The proposal seeks consent for demolition of existing structures on the site and construction of five residential flat buildings, including basement parking and retention of the heritage listed Scarba House.

The proposal is considered to be appropriate to the site. The development has been designed to meet the requirements of the planning controls for the subject site and the desired future character of the area envisioned by these controls. The proposal will not have unreasonable impacts upon the amenity of surrounding properties and will provide a positive contribution to the streetscapes on both Ocean Street and Wellington Street. The provision of a semi-public park central to the site, links to Dickson Park for private and public use and the retention of heritage listed Scarba House and significant trees provides a public benefit to the community.

Both the original and amended plans have been notified extensively. During the initial notification and exhibition period, 82 submissions and a Councillor submission were received. After notification of the amended plans, 32 submissions were received. The issues raised in the submissions have been taken into consideration and where appropriate, changes have been required.

The development application is recommended for approval (via Deferred Commencement consent).

#### **5. RECOMMENDATION TO JOINT REGIONAL PLANNING PANEL**

That the Development Application be granted **DEFERRED COMMENCEMENT** by the Joint Regional Planning Panel subject to the Conditions in Schedule A and B:

**Report Prepared by:**

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



Kylie Lucas  
**Senior Development Assessment Planner**

Angela Rossi  
**Manager, Development Assessment (Central)**

**Date: 30 November 2014**

**Date: 1 December 2014**

# SCHEDULE A: DEFERRED COMMENCEMENT CONSENT

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

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

## 1. SITE AUDIT STATEMENT

A Site Audit Statement (SAS) prepared by a NSW Environment Protection Authority (EPA) accredited site auditor is to be submitted to Council certifying that the site is suitable for the intended use. Conditions on the SAS shall form part of the consent.

Where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council these conditions should be discussed with Council before the Site Audit Statement is issued prior to the commencement of construction.

## 2. SUBSTATION LOCATION

The substation on Ocean Street shall be relocated to within the front setback of Building A (Ocean Street). The substation shall be suitably screened from the street through landscaping and/or built screening and details shall be provided.

**Note: Should the JRPP resolve to support the substation in the proposed location, then concurrence is required of the electricity supply authority for the area (Ausgrid).**

## 3. 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, facades and detail 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 are required.
- (b) The materials and finishes proposed shall be indicated on the architectural plans, and not rely on a separate schedule/sample board. Details shall include the proposed external walls and roofing materials, window fenestration, window frame colour details, privacy treatment, fencing, paving and balustrading details and guttering colour and profile.
- (c) The architectural plans (not solely site plan) are to be updated to include dimensions (including setbacks from boundaries and/or adjacent building forms, building heights measured from 'new' ground level to top of building and top of plant), existing ground levels.
- (d) The two-storey void in the centre of Building D (ground floor and Level 01 on plan) shall remain open and not be enclosed by any material including glazing or screening.
- (e) Window and door operation needs to be clearly marked on all the elevations.

**Upon satisfying the consent authority as to the matters in Schedule A, the following conditions will apply:**

## **SCHEDULE B: CONDITIONS OF CONSENT**

### **A. APPROVED DEVELOPMENT**

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

The development must be in accordance with:

- (a) Architectural Plan Nos. A001 – A004 (inclusive), A100 – A107 (inclusive), A110, A300 – A304 (inclusive), all Revision B, tables and documentation prepared by Smart Design Studio, dated 20/10/2014, and received by Council on date 21 October 2014,
- (b) Landscape Plan Nos. 13072-DA01 – DA06 (inclusive) Revision K and documentation, including the DA Landscape Report prepared by Aspect Studios, dated October 2014, and received by Council on 21 October 2014;
- (c) Landscape Management Plan prepared by CAB Consulting Pty Ltd dated March 2014 received by Council on 16 May 2014;
- (d) BASIX Certificate;
- (e) Stormwater Details and documentation prepared by AECOM, Job No. 60317384, Drawing No. H5900 to H5906, dated 13 June 2014, and DP CONSULTING GROUP Pty Ltd, Drawing No. SWD-DA 5014 & 5015, dated 17.10.14, and received by Council on 21 October 2014;
- (f) Operational Waste Management Plan prepared by SLR Consulting dated 15 October 2014, and received by Council on 21 October 2014;
- (g) Traffic and Parking Assessment prepared by Parking and Traffic Consultants dated October 2014, and received by Council on 21 October 2014;
- (h) Demolition Management Plan prepared by Mirvac Constructions received by Council on 16 May 2014;
- (i) Construction and Environmental Management Plan prepared by Mirvac Constructions received by Council on 16 May 2014;
- (j) Green Travel Plan prepared by Parking and Traffic Consultants dated May 2014 received by Council on 16 May 2014;
- (k) Statement of Heritage Impacts prepared by Graham Brooks and Associates dated May 2014, and received by Council on 16 May 2014 and addendum dated 20 October 2014 and received by Council on 21 October 2014;
- (l) Schedule of external finishes and colours received by Council on 16 May 2014; and



- (m) The Site Waste and Recycling Management Plan (SWRMP) and Checklist, in accordance with the SWRMP Checklist of Part B, Waverley DCP 2012.

Except where amended by the following conditions of consent.

## **2. CONSULTANT REPORTS**

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

## **3. SITE CONTAMINATION - REMEDIATION WORKS**

- (a) Remediation and validation works shall be carried out in accordance with the Remedial Action Plan (Report Ref: 50119/58735 by JBS&G dated 17 October 2014).
- (b) Any variation to the Remedial Action Plan shall be approved by the Accredited Site Auditor and Council in writing prior to the commencement of any work. The applicant must inform the Private Certifying Authority (PCA) in writing of any proposed variation to the remediation works. The PCA shall approve these variations in writing prior to commencement of works.
- (c) Prior to the commencement of any work, other than demolition or excavation in association with remediation of the site, a Site Audit Statement is to be submitted to and approved by Council clearly stating that the site is suitable for the proposed use.

## **4. DESIGN RESOLUTION MODIFICATIONS - ARCHITECTURAL DETAIL**

The proposal shall be amended as follows:

- (a) The screening/enclosures around the roof plant on the roofs of Buildings A, D and E shall be deleted.
- (b) Parapets to roofs shall be limited to a maximum height of 300mm above finished floor level of each building.
- (c) All rooms without windows or natural ventilation shall not be used for habitable purposes in accordance with the BCA. In particular, this applies to the units AG.03, A1.01, A2.04, A3.04 that provide rooms without windows.
- (d) Ceiling fans shall be provided throughout each of the units and indicated on the plans.
- (e) An improved roof design with clerestory windows shall be used to capture winter sun and provide added light and ventilation, particularly to service rooms and at entries. Drawings should indicate roof thicknesses for falls, surface treatment and insulation.
- (f) Ventilation should be able to be maintained at night without compromising security. Sliding doors alone to balconies will not provide this and consideration needs to be given to fanlights, windows or other ventilation options. Details of the ventilation methods and window operation shall be indicated on the elevations.

- (g) Natural light to the foyers needs to be provided through windows, which should be open-able for natural ventilation.
- (h) The roof plant of Building A shall be restricted to RL102.3 (to correct a discrepancy in the plans).
- (i) The roof plant of Building D shall be restricted to RL96.2 (to correct a discrepancy in the plans).
- (j) The roof plant of Building E shall be restricted to RL96.2 (to correct a discrepancy in the plans).

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.

## **5. FRONT FENCING TO WELLINGTON STREET**

The proposal shall be amended as follows:

- (a) The Wellington Street gates shall be retained and restored.
- (b) There continues a need for a clear reading of the historic entry to the site and its retention as a principle entry to the site. New entry points should remain visually separate to the original gates and reflect the form and scale of the original entry.
- (c) No approval is granted for an opening in the sandstone wall for Building C access directly from Wellington Street. In this regard, the sandstone wall shall be retained as existing (and restored) and the opening deleted from the plans. The plans shall be amended to setback 'B1 Basement Plan level' of Building C a minimum of 1.5m from the eastern boundary of the site. Accessible entry/exit shall occur at ground level.
- (d) Boundary fencing shall be limited to 1.2m above the sandstone wall (tapering with the gradient) on Wellington Street, as measured from the upper most point of the existing sandstone wall, and consist of a 50% open design for visibility into and out of the site. Arched gates, piers and the like can exceed 1.2 metres.

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.

## **6. FRONT FENCING TO OCEAN STREET (INCLUDING THROUGH SITE LINKS)**

The front fencing to Ocean Street including gates to the through site links (including the 'allee') shall be no higher than 1.6 metres above street level. In this regard the solid element of the fence shall not exceed 1.2 metres in height and above 1.2 metres the fence shall have a 50% open design for visibility into and out of the site. Arched gates, piers and the like can exceed 1.2 metres.

## **7. SIDE FENCE HEIGHT**

The proposed fence abutting the side boundaries to adjoining sites to the north (including Dickson Park) and south of the site shall not to exceed a maximum height of 1.8metres above the existing ground level of the adjoining property.

## **8. DICKSON PARK**

- (a) Established tree planting in Dickson Park is to be maintained and enhanced by boundary planting to the northern boundary of the site. Trimming of trees for view enhancement is not permitted.
- (b) No tree work is permitted on any tree in Dickson Park or any street tree without prior approval from council.

## **9. WORKS TO SCARBA HOUSE**

As there were no specific details provided regarding works to Scarba House, all works to this property are not approved by this development consent, with the exception being only the demolition of later additions as detailed within the application. The works to Scarba House shall be the subject of separate development consent, including future use, details of restoration works and the external finishes and colours.

The renovation and restoration of Scarba House shall be completed prior to the release of any Occupation Certificate for the development.

## **10. PRIVACY MEASURES AND DETAILS**

To mitigate privacy impacts within the development and upon surrounding properties, the proposal shall be amended as follows:

- (a) Building A: The living area and kitchen windows on the northern elevation of the front part of this building from levels 1-3 (units A1.09, A2.01, A3.01) shall implement additional privacy measures to reduce impacts upon No. 16 Ocean Street to the north. To mitigate privacy impacts, one of the following measures shall be implemented:
  - (i) Sill heights shall be raised to 1.6 metres above finished floor level.
  - (ii) Privacy screening (such as fixed louvres) to a height of 1.6 metres above finished floor level; or
  - (iii) Fixed obscure glazing to the lower panes of the windows to a height of 1.6 metres above finished floor level.
- (b) Building B: Windows on the western elevation shall be obscure glazed.
- (c) Building C: The bedroom windows to Unit C1.03 on the western elevation shall be obscure glazed or fitted with a privacy screen to a height of 1.6 metres above finished floor level to mitigate privacy impacts to Scarba House.

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

## **11. PARKING**

- (a) Ownership of car park lot spaces within the basement shall be limited to parties owning a residential unit within the buildings on-site.

- (b) A maximum of two car spaces shall be allocated to any residential unit/dwelling (including Scarba House) to ensure equitable allocation overall.
- (c) Car parking spaces shall not be independent lots, but rather part lots attached to units in any future Subdivision Plans.
- (d) The allocation of the 221 parking spaces shall be as follows:
  - (i) Residential units: 171 spaces (of which minimum 10% accessible)
  - (ii) Scarba House: 2 spaces
  - (iii) Visitors: 45 spaces (of which minimum 10% accessible)
  - (iv) Car Share: 3 spaces.

## 12. AMENDED LANDSCAPE PLAN

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

- (a) The removal of the three trees detailed in the table below are not approved for removal and they shall be retained. The landscape plan shall be amended to indicate the retention of these trees.

T 29 Platanus x hybrida	Within Site	retain and protected
T30 Platanus x hybrida	Within Site	retain and protected
T31 Platanus x hybrida	Within Site	retain and protected

- (b) There is to be a minimum representation of 50% native species used across the site (represented in each category of trees, shrubs, ground covers). The Landscape Plan needs to outline the number of plants to be implemented. There is scope to increase the Landscape Plan so that planting beds are exclusively made up of local native plants.
- (c) The landscape plan is to be updated to more closely reflect the approved architectural drawings.

The amended landscape plan is to be submitted to Council for approval by the Council's Tree Management Officer prior to the issue of the relevant Construction Certificate.

## 13. STREET TREES REMOVAL/REPLACEMENT

- (a) The street trees as indicated on the Development Impact Assessment Report from Earthscape Services dated 7 May 2014 may be removed by a qualified and experienced arborist or tree surgeon [Australian Qualification Framework Level 3] in accordance with the NSW WorkCover Code of Practice for the Amenity Tree Industry (1998).
- (b) The additional street trees as indicated on the amended landscape plans to be planted in Ocean Street are to be Brushbox (*Lophostemon confertus*). The street trees as indicated in Wellington Street are to be Tulipwood (*Harpullia pendula*) or Paperbark (*Melaleuca quinquenervia*).
- (c) The new street trees to be planted must:
  - (i) be a minimum pot size of 200 litres and grown to Natspec specifications
  - (ii) be planted by a qualified horticulturist (AQF Level 3)

- (iii) have a minimum planting hole width of 1200 mm.
  - (iv) use a quality soil mix similar to ANL Landscapes 'Native Low P Mix'.
  - (v) have a root barrier installed to a depth of 500mm along both sides of each planting hole parallel to the kerb.
- (d) A hold point to be established prior to the installation of the street trees. Council's Strategic Tree Planning Officer must be notified 48 hours in advance to arrange inspection prior to the installation of the trees.
- (e) All street trees are to be sourced in advance prior to the commencement of demolition and a copy of the invoice is to be submitted to Council's Strategic Tree Planning Officer prior to the issue of the relevant Construction Certificate.
- (f) Existing street trees to be protected in accordance with recommended methods as outlined in the Development Impact Assessment Report dated 7 May 2014 from Earthscape Services and guidelines from Australian Standard AS 4970 - Protection of Trees on Development Sites.

#### **14. LIGHTING**

- (a) 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.
- (b) Signage and area lighting throughout the site should be set apart from existing boundary fencing and the fabric of Scarba House.
- (c) All external lighting fixtures should be vandal resistant.
- (d) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (e) Lighting should be free of obstructions, such as tree branches, pipes, etc.
- (f) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.

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

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

#### **16. ARCHITECT TO SUPERVISE DESIGN**

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of **a qualified designer** in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

## **17. THROUGH-SITE LINK**

The following requirements apply to all through-site links within the development:-

- (a) The purpose of the link shall be public pedestrian access through the site during day light /evening hours. The link shall be accessible to the public at least between the hours of 7.00am to 10.00pm, seven days.
- (b) Signage identifying the purpose of the link and its trafficable hours to the public shall be provided to each entry.
- (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 site at all times.
- (e) The link shall be designed so as to allow for fire egress from the buildings 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.
- (h) Closed Circuit Television (CCTV) in link shall be provided to the public areas of the through site link to assist with Crime Prevention.
- (e) Adequate lighting shall be provided to the public areas of the through site link, and each entry/exit to assist with Crime Prevention.
- (f) A Through Site Link Management Plan shall be submitted and approved by Council prior to the issue of an Occupation Certificate that includes details on access hours, security measures and how/who will ensure gates are opened/closed at required times.

## **18. ROOFS SHALL BE NON TRAFFICABLE**

The roofs of each building shall be non trafficable and accessed for maintenance purposes only.

## **19. 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.

## **20. 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.

## **21. 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.

## **22. 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.

## **23. 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).

**24. 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.

**25. SEPARATE APPLICATION FOR STRATA SUBDIVISION**

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

**26. 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.

**27. 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.



## B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### 28. 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.

### 29. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$190,000 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.

### 30. 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.

### **31. LANDSCAPING BOND**

The owner/applicant is to lodge with Council a bond of \$20,000 either as cash or by way of an unconditional bank guarantee to ensure the maintenance and protection of the protection and maintenance of all street trees in Ocean and Wellington Streets and Dickson Park.

The bond is to be lodged prior to the issue of a Construction Certificate. The sum will be forfeited to the Council at its discretion for a breach of these requirements, and will be refunded twelve months from the issue of the Occupation Certificate subject to the satisfaction of Council.

Any trees that require replacing must be replaced within two weeks of notification from Council. 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 twelve month maintenance from the date of replacement.

### **32. 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.

### **33. NOISE MANAGEMENT PLAN - CONSTRUCTION SITES**

A Noise Management Plan must be submitted to Council for approval prior to the issue of the relevant construction certificate and complied with during any construction 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) Identification of nearby residents, schools and other sensitive locations near to the site;
- (b) Description of hours of work and what work will be undertaken
- (c) Description of what work practices will be applied to minimise noise
- (d) Mitigation measures to control noise from the site, the noise reduction likely and the feasibility and reasonableness of these measures;
- (e) Selection criteria for plant and equipment;

- (f) Community consultation
  - (i) It is recommended that the applicant utilise website content or social media to inform the community of construction phases, in particular those that will cause noise and/or traffic disruptions.
- (g) Details of work schedules for all construction phases;
- (h) Selection of traffic routes to minimise residential noise intrusion;
- (i) Schedule of plant and equipment use and maintenance programs;
- (j) Noise monitoring techniques and method of reporting results;
- (k) The methodology to be employed for handling and investigating any complaints should they arise, including documentation and feedback mechanisms;
- (l) Identification of a site contact person to follow up on complaints and site signage erected to advise of persons name and contact details.
- (m) Site induction details for employees and contractors, and;
- (n) A declaration of available technologies and the reason for the selection of the preferred technology from a noise generating perspective should be included.

#### **34. 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.

### **35. 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.

### **36. 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.

### **37. 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.

### **38. 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) 16, 24, 26, 30, 32 and 34 Ocean Street and 22-28 Wellington Street 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.

### **39. 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.

### **40. 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.

### **41. 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.

### **42. GENERAL MODIFICATIONS – SAFETY AND SECURITY**

Safety and security measures are to be achieved within the development by a minimum of the following standards:

- (a) Signage should be displayed on each level of the building to assist visitors and emergency services to identify their location within the building. Signage should also be displayed on the main entry doors to each unit within the building again to assist visitors and emergency services to identify the location within the building.
- (b) Lighting which complies with the Australian Standard should be installed in and around the development to increase surveillance opportunities during the hours of darkness. The emphasis should be on installing low glare/high uniformity lighting levels over all areas. The luminaires (light covers) should be designed to reduce opportunities for malicious damage (vandalism).
- (c) Blank surfaces from the ground to the bottom of level 1 of the building should be constructed of either non porous materials or the surfaces treated with graffiti resistant materials to reduce opportunities for malicious damage (graffiti).
- (d) The power board should be housed within a cupboard or metal cabinet and secured with an approved electricity authority lock to restrict un-authorised tampering with the power supply.

- (e) Theft of mail poses a considerable risk particularly to large developments. With this in mind letterboxes should be located in an area with increased surveillance opportunities and be secured with quality lock sets to restrict unlawful access to mail.
- (f) The storage areas within the basement car parks should be of solid construction. The doors to these storage areas should also be of solid construction and secured with a lock set which complies the *Australian Standard – Mechanical Locksets for doors in buildings, AS:4145:1993* <http://www.standards.org.au> to restrict unauthorised access and the National Building Code (fire regulations).

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.

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

An updated Site Waste and Recycling Management Plan (SWRMP) is to be submitted to the Principal Certifying Authority for approval in accordance with Part B of 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.

#### **44. 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.

#### **45. 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 and approval of Council's Executive Manager, Creating Waverley prior to the issue of the relevant 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.

Please note: Under the current design, the orifice diameter must be 350mm. Additionally, as a sewer main runs through the property, the plans must also be presented to a Sydney Water Quick Check Agent for their approval.

#### 46. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

A "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) being submitted to Council for the approval of the Executive Manager- Creating Waverley prior to the issue of any Construction Certificate.

The CVPPM shall:

- (a) Show the proposed route to be taken by demolition, excavation and construction vehicles in the Waverley Council area when accessing and exiting the site.
- (b) Provide details of the largest articulated and rigid vehicles that are likely to be associated with the various stages of the development.
- (c) Include swept wheel path drawings for those vehicles in (b) above when entering and exiting the site and entering and exiting Bondi Road.
- (d) Indicate the type, size and number of trucks expected to be at the site at any one time during the various stages of development. Trucks with dog trailers and semi trailers will not be approved for use if it is considered with the information submitted that such vehicles:
  - (i) cannot adequately and safely gain access to and from the site
  - (ii) are unable to gain access to and from the site without the need to remove an unsatisfactory number of vehicles parked on public roads.
  - (ii) are likely to travel over a kerb or traffic control device or onto the footpath area.
- (e) Show the location of truck holding areas remote from the site to cater for times when trucks are unable to enter into the site on arrival or unable to access an approved works/construction zone. Trucks shall not be double parked or parked illegally in any street.
- (f) Detail 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.
- (g) Show 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 and shall only operate during the consent approved hours of construction.
- (h) Include the hours of operation of demolition/construction vehicles.
- (i) Indicate the number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- (j) Show how it is proposed to cater for the safe passage of pedestrians past the site. Information 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.
- (k) Provide evidence that justifies the proposed length of the work zones and indicate the number of on street car parking spaces that will be lost to the public during the work zone's hours of operation.



**47. BICYCLE PARKING**

A total of 209 bicycle parking spaces are to be provided and shall be physically separated and signposted into 191 residential and 18 visitor 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 and locations of bicycle parking for residents and visitors shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to the issue of the Construction Certificate.

**48. VISITOR CAR PARKING SPACES**

Provision shall be made for the parking of a minimum of 45 visitor vehicles in the basement car parking area. The visitor spaces shall be signposted and linemarked to Council's satisfaction.

**49. CAR SHARE SPACES**

The three car share spaces on basement level B1 shall be signposted and linemarked to Council's satisfaction and not used for the storage of goods or parking of other vehicles at any time.

**50. SMALL VEHICLE LOADING SPACE**

The small vehicle loading space on basement level B1 shall be signposted and linemarked to Council's satisfaction and not used for the storage of goods or parking of other, non delivery related vehicles at any time.

**51. SERVICE VEHICLE ACCESS**

All service vehicles shall enter and exit the site in a forward direction at all times.

**52. 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. In this regard, a minimum of 10% of the residential allocated parking and a minimum 10% of visitor allocated parking shall be dedicated 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.

**53. 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.

**54. ADAPTABLE HOUSING**

Access in accordance with AS4299 - Adaptable Housing shall be provided to at least nineteen (19) units in the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

**55. 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.

**56. SANDSTONE WALL**

The existing sandstone wall to Wellington Street shall be retained and or reinstated (ie stone salvaged and reused on site). Any replacement stone shall be of a suitable quality to match the existing and adjoining walls. The wall is to be a block work wall and not a clad wall. The wall shall be constructed using appropriate tradesmen skilled in traditional block work construction. Details of the works, including provision for storage of stone if required and grade of matching stone, shall be provided for in the relevant Construction Certificate plans to the satisfaction of the Principal Certifying Authority.

**57. 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.

**58. 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*.

**59. ENERGY AUSTRALIA**

The applicant is 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. The applicant is 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.

## **60. WASTE AND RECYCLING STORAGE AND COLLECTION**

- (a) The proposal must have a bin storage point for a minimum;

### **Building A**

- (i) 10 x 660L Mobile Garbage Bins (MGB) for general waste,
- (ii) 8 x 660L MGBs for recyclables,
- (iii) 6 x 660L MGBs for paper and cardboard,

### **Building B**

- (i) 2 x 240L Mobile Garbage Bins (MGB) for general waste collected weekly,
- (ii) 2 x 140L MGBs for recyclables collected fortnightly,
- (iii) 2 x 140L MGBs for paper and cardboard collected fortnightly and
- (iv) Additional space is to be made available for an extra 1 x 240L MGBs for paper/cardboard and 1 x 240L MGBs for recyclables

### **Building C**

- (i) 5 x 240L Mobile Garbage Bins (MGB) for general waste collected weekly,
- (ii) 2 x 140L MGBs for recyclables collected fortnightly,
- (iii) 3 x 140L MGBs for paper and cardboard collected fortnightly and
- (iv) Additional space is to be made available for an extra 1 x 240L MGBs for paper/cardboard and 1 x 240L MGBs for recyclables

### **Building D**

- (i) 8 x 660L Mobile Garbage Bins (MGB) for general waste,
- (ii) 4 x 660L MGBs for recyclables,
- (iii) 2 x 660L MGBs for paper and cardboard,

### **Building E**

- (i) 6 x 660L Mobile Garbage Bins (MGB) for general waste,
- (ii) 3 x 660L MGBs for recyclables,
- (iii) 4 x 660L MGBs for paper and cardboard

- (b) All garbage collection for the entire site shall occur wholly on-site at the waste collection point located within Building A. In this regard, waste from all buildings (including Buildings A - E and Scarba House) shall be transported to the waste collection point within Building A for pickup. No garbage collection shall occur from Wellington Street.
- (c) The waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.
- (d) The proposal must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).

- (e) A paper/cardboard MGB or crate should be situated in the waste compartment/areas on each floor to accompany the waste chute system to store a minimum of 1-2 day's volume of paper/cardboard likely to be generated on that floor.
- (f) The development must have rooms or caged areas with a minimum volume 4m<sup>3</sup> available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up.
- (g) 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.
- (h) 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, cleaners and tenants.
- (i) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (j) 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.
- (k) All waste and recycling receptacles must be removed from the kerbside as soon as possible on the same day as the collection service.

The above matters are to be shown in the Construction Certificate drawings and submitted to the satisfaction and approval of Council's Sustaining Waverley staff prior to the issue of the relevant Construction Certificate.

## **61. ARCHITECT TO SUPERVISE DESIGN - CONSTRUCTION CERTIFICATE DOCUMENTATION**

The preparation of the Construction Certificate plans shall be supervised and be to the satisfaction of a qualified designer in accordance with the requirements of State Environmental Planning Policy No. 65 - Design Quality of Residential Flats.

In accordance with clause 143a of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the plans and specifications achieve or improve the design quality of the development for which development consent was granted.

## **62. ARBORICULTURE CONSULTANT**

A qualified Arboricultural Consultant with a minimum Level 5 qualification (AQF) or the equivalent shall be retained for the duration of the demolition and construction of the development.

The consultant shall be engaged to ensure that tree protection measures on the site are as per detailed in Section 10 of the Development Impact Assessment Report, prepared by Earthscape

Horticultural Services, author Andrew Morton, dated May 2014 and received by Council on 25 Jun, 2014. Appendix 2 is to be complied with.

In addition, the Consulting Arborist is to identify key stages where monitoring and certification will be required as outlined in AS 4970 – 2009, Section 5. A schedule outlining these stages is to be submitted to and approved by Waverley Council's Tree Management Officer prior to the issue of the relevant Construction Certificate. A written account of the satisfactory completion of each of these stages as assessed by the consulting Arborist is to be reported to Council.

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

### **63. 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.

### **64. REMEDIATION REQUIREMENTS**

The following requirements apply to the remediation works required on-site:

- (a) A sign displaying the contact details of the remediation contractor (and site facilitator if different to remediation contractor) shall be displayed on the site adjacent to the site access. This sign shall be displayed throughout the duration of the remediation works. Owners and/or occupants of the premises adjoining the site shall be notified, in writing, at least seven days prior to the commencement of remediation works.
- (b) Remediation work shall not be carried out within 4 metres of the base of a tree, or adversely affect the appearance, health or stability of a tree, where works affecting the tree require Council approval.
- (c) Remediation work shall not be undertaken on land containing an item of environmental heritage where the consent of Council is required.
- (d) A covenant being registered on the title of the land giving notice of the former use and contamination of the site and the existence of the encapsulated cells containing contaminated material.
- (e) A covenant being registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated materials, including the discharge or prevention of discharge there from any contaminants or for any works required by the NSW Environment Protection Authority (EPA).

### **65. REMEDIATION WORKS REQUIRED**

All exposed areas shall be progressively stabilised and revegetated on the completion of remediation works. Remediation work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am and 1pm on Saturdays with no work to be carried out on Sundays or public holidays.

**66. 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.

**67. 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.

**68. 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.

**69. 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.

**70. 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.

## **71. 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.

## **72. TOILET FACILITIES**

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

## **73. 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 NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

The only waste derived fill material that may be received at the development site is:

- (a) virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*), or
- (b) any other waste derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environmental Operations (Waste) Regulations 2005* that is permitted to be used as fill material.



Any waste derived material the subject of resource exemption received at the development site must be accompanied by documentation as to the materials compliance with the exemption conditions and must be provided to the Principal Certifying authority on request.

#### **74. CONTAMINATING MATERIAL REQUIRED TO BE REMOVED**

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (eg: ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.
- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices. They shall also adopt work practices in accordance with the requirements of Safe Work Australia's National Standard for the Control of Inorganic Lead at Work (NOHSC: 1012 (1994) and NOHSC: 2015(1994).
- (c) All lead-contaminated materials being disposed of in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines 2009 and the Protection of the Environment Operations Act 1997 (NSW).

#### **75. SITE HEALTH & SAFETY PLAN**

A Site Health & Safety Plan is to be prepared prior to the commencement of remediation works by a person competent to do such Plan. All works are to be carried out in accordance with this Plan. This Plan shall include:

- (a) hazard identification and control
- (b) site security
- (c) personal protective equipment
- (d) work zones and decontamination procedures
- (e) contingency plans and incident reporting environmental monitoring

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the Principal Certifying Authority immediately.

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

At least five 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.

#### **77. 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).

#### **78. 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.

#### **79. 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".

#### **80. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT**

The applicant must ensure that the waste generated during the demolition and construction phase complies with the following;

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
  - (i) Landfill waste;
  - (ii) Recyclable waste;
  - (iii) Materials to be re-used on-site; and/or
  - (iv) Excavation materials.
 See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.
- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/containers are to be located within the property boundary and indicated on the site plans/drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012.
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and [www.nsw.gov.au/fibro](http://www.nsw.gov.au/fibro) and [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au).
- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

## **81. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS**

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

## **82. 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.

**83. 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.

**84. 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.

**85. 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.

**86. 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.

**87. 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.

**88. 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.

**89. 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.

## **90. BUILDING CODE OF AUSTRALIA**

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

## **91. BUILDING LEGISLATION AMENDMENT (QUALITY OF CONSTRUCTION) ACT - INSPECTIONS (RESIDENTIAL FLAT DEVELOPMENT AND OTHER RESIDENTIAL CLASS 2, 3 AND 4)**

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 Certification.

**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:

In the case of a Class 2, 3 and 4 building:

- (a) at the commencement of the building work;
- (b) prior to covering of waterproofing in any wet area for a minimum of 10% of rooms with wet area within a building;
- (c) prior to covering any stormwater drainage connections; and
- (d) 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.

## **92. 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.

**93. 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.

**94. IN-SINK WASTE DISPOSAL SYSTEMS**

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

**95. 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.

**96. 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.

**97. 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.

**98. 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.

**99. HERITAGE ARCHITECT**

The applicant is to commission an experienced conservation architect to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The conservation architect is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project.

The applicant is to commission experienced trades persons (as appropriate) that are skilled in traditional building and engineering trades to carry out the proposed scope of works.

**100. CARE TO BE TAKEN DURING CONSTRUCTION**

The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building known as 'Scarba House', which is listed as a Heritage Item.

**101. NEW VEHICLE CROSSINGS**

New vehicle crossings shall be provided at all access points to the site. A separate application seeking approval for the crossings will be required to be submitted to Council prior to installation. The vehicle crossings shall be constructed in accordance with Council's requirements.

**102. WELLINGTON STREET CROSSINGS**

The vehicle crossings on Wellington Street shall be designed and constructed to allow for a clear kerb length of 11m between the crossings to cater for the parking of two B85 standard vehicles.

**103. VEHICULAR ACCESS - FINISHED LEVEL**

The finished level of paving at the property boundary on the Ocean Street North and Wellington Street frontages at vehicle crossings and gates shall be finished 20mm above the back edge of the Council's existing concrete footpath.

**104. OCEAN STREET NORTH DRIVEWAY**

The island proposed inside the site separating ingressing and egressing vehicles at Ocean Street North shall be either a painted island or constructed of materials so as to be fully mountable and capable of taking wheel loadings of service vehicles.

**105. MEDIAN ISLAND ON WELLINGTON STREET**

A median island, limiting vehicles to left in/left out at Wellington Street shall be constructed at the applicant's expense prior to the issue of an Occupation Certificate. Details of the proposed median island shall:

- (i) Be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to installation.
- (ii) Be prepared by a suitably qualified and experienced engineering consultant.
- (iii) Include signs and linemarking in accordance with RMS standards and specifications.
- (iv) Include the location of and any changes proposed to the existing traffic calming device /speed hump and linemarking to the north of the egress driveway.

**106. RAMP GRADIENT AT BUILDING “A”**

The two way ramp proposed between the turntable and the garbage room and lift in the basement B1 car parking area under building “A” shall be constructed with reduced gradients in order to allow for the improved movement of heavy and bulky goods and waste material bins.

**107. CONVEX MIRRORS**

Convex mirrors shall be installed within the site on both sides of the egress driveway on Wellington Street to provide drivers with an improved sighting of pedestrians on the Council’s footpath area. The convex mirrors shall be maintained and be in a serviceable condition at all times.

**108. SIGNAGE TO EXITS**

Suitable signage shall be installed in the basement car parking areas to direct drivers to the Ocean Street North and Wellington Street exits.

**109. 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.

**110. 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.

**111. TREE PROTECTION MEASURES PRIOR TO ANY WORK (INCLUDING DEMOLITION)**

Trees to be retained and protected (including the size of the structural root zone and the Tree Protection zone) shall be clearly shown on any construction plans, or a copy of a Tree Protection Plan for the site shall be included with the construction plans.

Tree protection measures are to be installed prior to any work (including demolition). This shall be a key stage of the development and Council’s Tree Management Officer shall be notified that this has occurred.

**112. 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.

**113. TREE PLAN**

All trees to be retained on the subject site and neighbouring properties are to be protected by AS 4970 – 2009 Protection of trees on development sites and by any other imposed conditions.



All trees, shrubs or vegetation on the subject or neighbouring sites identified for retention and within 7.5m of the building work are to be provided with tree protection measures as described in the Development Impact Assessment Report, prepared by Earthscape Horticultural Services, author Andrew Morton, dated May 2014 and received by Council on 25 Jun, 2014. Appendix 2 is to be complied with.

- **Trees to be retained and protected;**

The trees to be protected are as specified in the “Tree Retention and Removal Diagram Dwg no 13072-DA06”.

<b>Species</b>	<b>Location</b>	<b>Action</b>
T 3 Lophostemon confertus	Within Site	<b>retained and protected</b>
T 4 Ficus macrophylla	Within Site	<b>retained and protected</b>
T 5 Ficus macrophylla	Within Site	<b>retained and protected</b>
T 6 Araucaria heterophylla	Within Site	<b>retained and protected</b>
T 7 Ficus macrophylla	Within Site	<b>retained and protected</b>
T 8 Ficus macrophylla	Within Site	<b>retained and protected</b>
T 9 Ficus macrophylla	Within Site	<b>retained and protected</b>
T 15 Ficus microcarpa var. hillii	Ocean Street North	<b>retained and protected</b>
T 17 Eucalyptus elata	Within Site	<b>retained and protected</b>
T 19 Araucaria heterophylla	Within Site	<b>retained and protected</b>
T 20 Populus deltoides	24 Ocean Street	<b>retained and protected</b>
T 27a Lagunaria patersonia	Within Site	<b>retained and protected</b>
T 27b Lagunaria patersonia	Within Site	<b>retained and protected</b>
T 36a Corymbia maculata	26-30 Ocean Street	<b>retained and protected</b>
T 36b Casuarina cunninghamiana	26-30 Ocean Street	<b>retained and protected</b>
T 37 Populus deltoides	24 Ocean Street	<b>retained and protected</b>
T 37a Phoenix canariensis	24 Ocean Street	<b>retained and protected</b>
T 38 Populus deltoides	Within Site	<b>retained and protected</b>
T 54 Pittosporum undulatum	22-28 Wellington Street	<b>retained and protected</b>
T 55 Pinus pinaster	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 56 Corymbia gummifera	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 57 Pinus pinaster	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 58 Pinus pinaster	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 59 Podocarpus elatus	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 60 Melaleuca quinquinervia	34a Ocean Street/22-28 Wellington Street	<b>retained and protected</b>
T 62 Quercus robur	32 Ocean Street	<b>retained and protected</b>
T 63 Ficus rubiginosa	Boundary with 32 Ocean Street	<b>retained and protected</b>
T 64 Quercus robur	32 Ocean Street	<b>retained and protected</b>
T 65 Ficus microcarpa var. hillii	Dickson Park	<b>retained and protected</b>
T 66 Ficus microcarpa var. hillii	Dickson Park	<b>retained and protected</b>
T 67 Ficus microcarpa var. hillii	Dickson Park	<b>retained and protected</b>
<b>T 29 Platanus x hybrida</b>	<b>Within Site</b>	<b>retained and protected</b>

<b>T30 Platanus x hybrida</b>	<b>Within Site</b>	<b>retained and protected</b>
<b>T31 Platanus x hybrida</b>	<b>Within Site</b>	<b>retained and protected</b>

**\*TPZ- Tree Protection Zone**

TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above. All tree protection fencing shall comply with AS 4970 – 2009 Protection of trees on development sites.

The maintenance of this TPZ shall be maintained as per AS4970 – 2009, Section 4.6.

Established boundary fences or site boundary fences are to remain in place at all times to physically protect any existing trees or vegetation on neighbouring sites. If fences are to be removed and replaced this process shall be undertaken in the most minimal time possible.

If tree roots are exposed during this process and they are to be exposed for any more than 24 hours then a protective absorbent covering is to run the length of the exposed boundary. This covering is to be kept moist to prevent the drying out of roots.

Any backfilling material required due to excavation shall meet the requirements of AS 4419-2003 Soils for landscaping and garden use. Any backfilling material shall also be conducive to promoting root development and growth.

Soil levels are not to be changed around any trees on the subject or neighbouring properties.

No mechanical excavation shall be undertaken within the tree canopy spread (within the dripline) or within 2.0m from the middle of the trunk (whichever is greater) of any tree, shrub or vegetation that is protected under Waverley Council's Tree Preservation Order.

If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.

If tree roots are required to be removed for the purposes of constructing the approved works they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process then Waverley Council's Tree Management Officer is to be contacted to make final determination.

If any trees or vegetation on the subject property require pruning and are covered by Waverley Council's Tree Preservation Order an Application to Prune or Remove Trees on Private Property is must be presented to Council for processing.

If any trees on neighbouring properties require pruning and are covered by Waverley Council's Tree Preservation Order then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.

There are to be no underground services installed within 2.0 metres from the middle of the trunk of any trees to be planted, or 1.0 metres from the edge of any proposed garden bed.

#### 114. TREE PROTECTION

Precautions shall be taken when working near trees, shrubs or vegetation on the subject or neighbouring properties 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.
- (h) If any trees are damaged through the construction or demolition process, they must be replaced with a tree(s) of comparable size as approved by Council.

- **Trees to be removed from on site;**

In accordance with "Tree Retention and Removal Diagram Dwg no 13072-DA06":

Species	Location	Action
T 1 Lophostemon confertus	Within Site	Remove
T 2 Juniperus sp. Juniper	Within Site	Remove
T 10 Liquidambar styraciflua	Within Site	Remove
T 10a Agonis flexuosa	Within Site	Remove
T 11 Morus nigra	Within Site	Remove
T 11a Banksia integrifolia	Ocean Street North	Remove
T 12 Lophostemon confertus	Within Site	Remove
T 12a Casuarina glauca	Ocean Street North	Remove
T 13 Melaleuca styphelioides	Ocean Street North	Remove
T 13a Casuarina glauca	Ocean Street North	Remove
T 14 Lophostemon confertus	Within Site	Remove
T 16 Lophostemon confertus	Within Site	Remove
T 16a Corymbia maculata	Within Site	Remove
T 18 Cinnamomum camphora	Within Site	Remove
T 21 Eucalyptus botryoides	Within Site	Remove
T 21a Populus nigra 'Italica'	Within Site	Remove
T 21b Populus nigra 'Italica'	Within Site	Remove
T 22 Eucalyptus botryoides	Within Site	Remove
T 23 Eucalyptus botryoides	Within Site	Remove
T 24 Eucalyptus botryoides	Within Site	Remove
T 25 Eucalyptus botryoides	Within Site	Remove
T 25a Olea africana	Within Site	Remove
T 26 Eucalyptus botryoides	Within Site	Remove
T 27 Eucalyptus botryoides	Within Site	Remove
T 28 Lophostemon confertus	Within Site	Remove
T 32 Olea africana	Within Site	Remove
T 33 Magnolia grandiflora	Within Site	Remove
T 34 Juniperus sp	Within Site	Remove

T 35 Magnolia grandiflora	Within Site	<b>Remove</b>
T 36 Cinnamomum camphora	Within Site	<b>Remove</b>
T 39 Lophostemon confertus	Within Site	<b>Remove</b>
T 39a Jacaranda mimosifolia	Within Site	<b>Remove</b>
T 39b Melaleuca leucadendra	Within Site	<b>Remove</b>
T 40 Juniperus sp	Within Site	<b>Remove</b>
T 41 Juniperus sp	Within Site	<b>Remove</b>
T4 2 Juniperus sp	Within Site	<b>Remove</b>
T 43 Juniperus sp	Within Site	<b>Remove</b>
T 44 Juniperus sp	Within Site	<b>Remove</b>
T 45 Juniperus sp	Within Site	<b>Remove</b>
T 46 Juniperus sp	Within Site	<b>Remove</b>
T 47 Juniperus sp	Within Site	<b>Remove</b>
T 48 Syzygium paniculatum	Within Site	<b>Remove</b>
T 49 Cupressus sempervirens	Within Site	<b>Remove</b>
T 50 Melaleuca quinquinervia	Wellington Street	<b>Remove</b>

In line with Council's policy to maintain and increase tree cover in the Council area, all trees where consent has been given to remove are to be replaced with a local native tree of minimum container size of 75 litres and shall be maintained until they attain a mature height of at least five (5) metres, or whereby they will be protected by Council's Tree Preservation Order. The Landscape plan prepared by Ocean Street North, Bondi DA Landscape Report 13072-DA-LR Mirvac May 2014 satisfies the above requirement.

Any replacement tree is to be planted a minimum of 1.0 metres from any boundary, structure or underground services, and should be located in a similar location to the specimen approved for removal.

Trees shall not be tied to stakes unless support is essential. In lawn areas, grass is to be kept back for a radius of at least 450mm from stems and trunks, a depression should be formed for the collection of water and the area mulched.

Woodchip mulch is to be installed to a depth of 75-90mm to all mass planted garden areas and around the base of trees in lawn areas. The mulch should be kept at least 50mm away from plant stems to reduce the risk of collar rot.

The replacement local native trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 4.0 metres whereby they will be protected by Council's Tree Preservation Order.

If the replacement trees are found to be faulty, damaged, dying or dead before being protected by Council's Tree Preservation Order the tree/s shall be replaced with the same species at no cost to Council.

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

### **115. SYDNEY WATER**

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

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

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

### **116. ARCHITECT TO SUPERVISE DESIGN - OCCUPATION CERTIFICATE DOCUMENTATION**

In accordance with clause 154A of the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless it has received a design verification from a qualified designer, being a statement in which the qualified designer verifies that the residential flat development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued.

### **117. MEDIAN ISLAND – WELLINGTON STREET**

Prior to the issuing of an Occupation Certificate, the median island/strip on Wellington Street near the vehicular entrance to the development required by Council being dedicated to Council with all costs associated being borne by the applicant.

### **118. REDUNDANT VEHICLE CROSSINGS**

Redundant vehicle crossings/ ramps are to be closed and all work associated with the closure is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense, prior to the issue of an Occupation Certificate.

### **119. PARKING PERMITS**

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

### **120. WAVERLEY DIGITAL MODEL**

Prior to the issue of an Occupation Certificate an accurate 'as built' digital model of the building must be submitted to Council's Planning and Environmental Services Department for use in the Waverley Digital Model.

- a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
  - i. a building envelope which includes all elements affecting shadow analysis;

- ii. accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
  - iii. a ground level terrain showing accurate RLs extending to site boundaries.
- b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling) Officer, Planning and Environmental Services Department.

Notes:

- This model will update previous version/s submitted at Development Application stage.
- Any future modifications (under Section 96 of the Environmental Planning and Assessment Act) that affect the external configuration of the building (from the ground level and up), will require the submitted model to be amended.

#### **121. CERTIFICATION OF MECHANICAL EXHAUST**

The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 parts 1 and 2, 2002. A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

#### **122. MECHANICAL VENTILATION SYSTEMS**

- (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.

#### **123. 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.

#### **124. 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 Occupation Certificate.

## **125. ALLOCATION OF STREET NUMBER**

The redevelopment of the property has lead to the following allocation of street numbers:

- No. 30 for the site;

With each building being identified individually as follows:

- (i) Building A for the building marked A on the plan;
- (ii) Building B for the building marked B on the plan;
- (iii) Building C for the building marked C on the plan;
- (iv) Building D for the building marked D on the plan;
- (v) Building E for the building marked E on the plan;
- (vi) Building F Scarba House for the building marked Scarba House on the plan;

The street and building numbers for each premise shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street.

As the proposed development has multi level sub addresses the following shall apply when the sub addresses are numbered:

- (i) 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.
- (ii) For clarity, a zero will be interposed in the number of the first nine sub address levels eg level 3 unit 4 =304
- (iii) Unit numbers must not be repeated throughout the complex so the building letter must prefix the unit number eg Building A unit 304 = A 304

The street, building and unit numbers are 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.

## **126. 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.

**-END-**