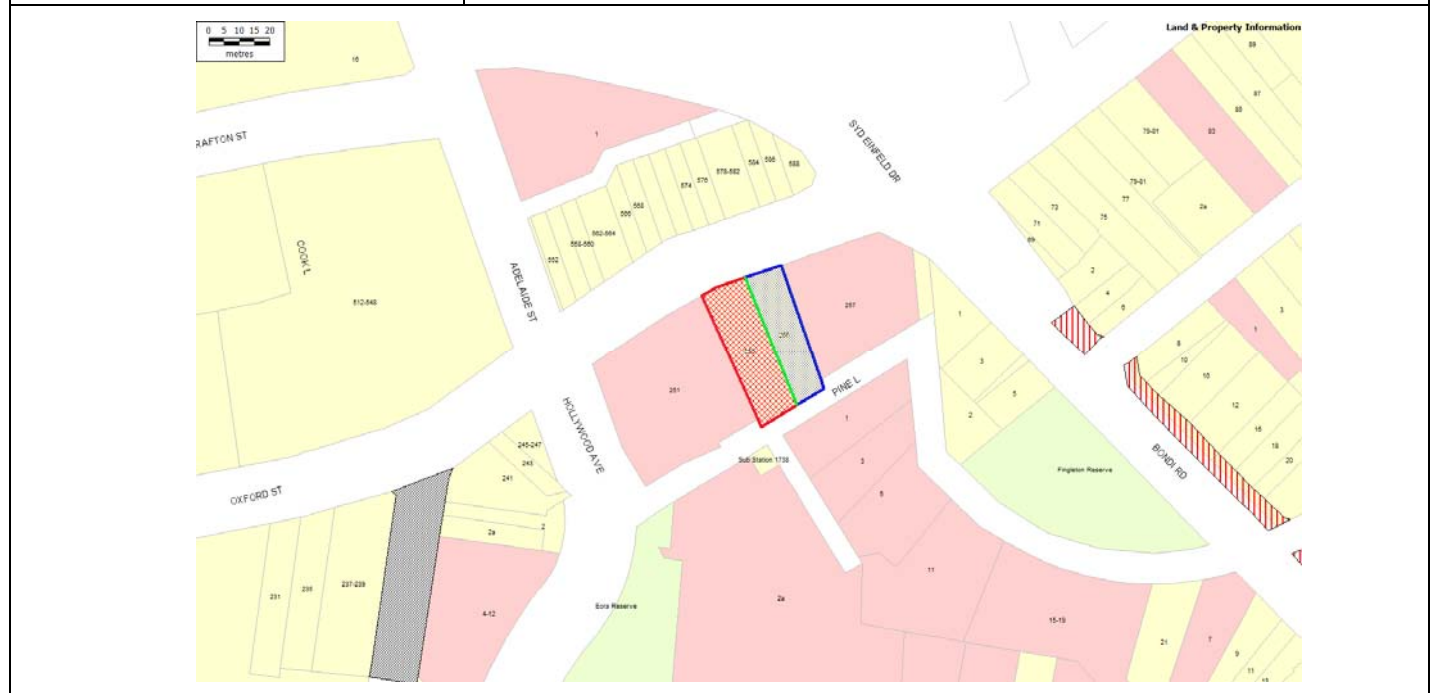




Report to the Sydney East Joint Regional Planning Panel (JRPP)

Application number	DA-539/2013/B
Site address	253-255 Oxford Street, Bondi Junction
Proposal	Modifications to street trees and front awning, balconies, internal modifications and changes to all floor levels resulting increase of overall building height to RL 150.30 (to lift overrun).
Approved development description	Demolition of buildings, construction of mixed use building with affordable housing component.
Date of lodgement	23 December 2014
Owner	Legpro14 Pty Ltd
Applicant	Mecone Pty Ltd
Submissions	One submission
Issues	Additional height, street trees
Recommendation	That the application be Approved subject to conditions of consent



1.1 SITE AND SURROUNDING LOCALITY

The site is located on the southern side of Oxford Street between Bondi Road and Adelaide Street/Hollywood Avenue and includes 253 Oxford Street (Lot 1, DP 795731) and 255 Oxford Street (Lot 3, DP 4271). The site is within the Bondi Junction Centre on its north east edge.

The site previously contained two buildings; a three storey building on 255 Oxford Street and nine storey building on 253 Oxford Street, both of which had ground floor retail and commercial office (mainly medical suites) in the upper levels.

The two sites are currently enclosed by scaffolding, as works to the site have begun under the initial development consent issued for the site. Staged construction certificates have been issued for demolition of the existing buildings on the two sites and for excavation and shoring works for the approved building.

The site has a primary frontage to Oxford Street of 28m and secondary rear access extending 24m to Pine Lane. The site has an area of 1171m² and a fall from the rear down to the front of the site of approximately 5.07m.

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



Figure 1: The site prior to demolition

1.2 DETAILS OF APPROVED DEVELOPMENT

- **2013: Development Application (DA-539/2013)- Mixed Use Building with Affordable Housing**

On 10 December 2013, the above development application was lodged for the demolition of buildings, construction of a 22 storey mixed use building with the provision of affordable housing.

This application was the similar to the development previously approved by the Joint Regional Planning Panel under DA-386/2012 however included internal modification to the building but included two extra levels on top of the building and proposed the provision of affordable housing under (the now repealed) Clause 4.4B of the Waverley Local Environmental Plan 2012. The application sought an additional 15% of floor space to provide affordable housing in accordance with Clause 4.4B of the LEP. That additional 15% of additional floor space was sought however on top of the approved building, resulting in a breach to the LEP height control which was considered to have unacceptable impacts.

That application was refused by the Joint Regional Planning Panel on 13 June 2014.

The application was then appealed in the Land Environment Court. The outcome of the Case is outlined in an extract from the judgement below (*LEC 10195 of 2014*);

During the course of the proceedings the applicant was given leave to amend the application to rely on amended plans, and ordered to pay costs under s 97B of the Act as agreed or assessed. In summary, the amendments delete the proposed top two storeys, relocate the communal open space to the roof of the proposed building, relocate the rooftop plant and equipment, increase the area of retail tenancy on the ground floor, and add units to levels 4 and 5, where the communal open space was formerly provided. The north eastern part of the building, the lift overrun, and certain plant on the roof, would exceed the 60m height limit.

This application was approved with an FSR of 6.7:1, which included a 12% bonus pursuant to Clause 4.4B of the LEP for the provision of affordable housing. The amendments satisfied the concerns of the Council. The appeal was therefore upheld, subject to the plan amendments proffered by the applicant.

- **2014 : Construction Certificate (CCB-14/2014) - Stage 1 Construction certificate for the demolition of existing 8 level brick and concrete building and demolition of existing 2 level brick and tile building**

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

- **2014: Construction Certificate (CCB-310/2014)- Stage 2 Construction certificate for Excavation and Shoring**

In August 2013, a stage 2 construction certificate was issued for Excavation and Shoring works under DA-386/2012.

- **2014: Section 96(2) modification (DA-539/2013/A) - Modifications to approved mixed use building**

On 22 September 2014, a Section 96(2) modification was submitted for internal reconfigurations, external facade changes to the mixed use building approved by the Land Environment Court under DA-539/2013. The application also sought modifications to conditions of consent, but did not propose any changes to approved FSR and height of the building. That application was reported to the Joint Regional Planning Panel for determination and was subsequently approved on 22 December 2014.

- **2014: Amending DA (DA-628/2014) Amending DA For two additional levels for approved mixed use building, including proposed Planning Agreement.**

On 24 December 2014 and amending DA to DA/539/2013 was submitted for two additional levels. This application sought an additional 8, 623m² of gross floor area, equating to an FSR of 7.36:1, overall height of 72m. This proposal resulted in a 20% and 23% breach to the height and FSR controls in the LEP. This application was refused by the Waverley Development Assessment Panel on 29 May 2015.

The applicant has an lodged an appeal against the decision in the Land Environment Court and proceedings are underway.

1.3 PROPOSAL

This application has been lodged as a Section 96 (2) application. The modifications include:

- Removal of street tree
- Modifications to the front awning
- Modifications to balconies and louvres
- Internal modifications
- Changes to all floor levels (raised by 150mm) and increase in the height of the building plant and equipment (1.5m to the lift), resulting in an increase of overall building height to RL 150.30 (to lift overrun).

The architect of the project has since changed, originally Dickson Rothschild Architects and now Mijollo International Architects. Given that the proposal has a new architect, a full set of plans was requested in order to accurately assess the proposed modifications against the plans approved by the Land Environment Court.

1.4 BACKGROUND TO THIS DEVELOPMENT APPLICATION

The application was lodged to Council on 23 December 2014. On 9 January 2015, the application was deferred as the application was not submitted with a full set of the plans to determine the proposed modifications in relation to the whole development. Additional information was submitted on 22 January 2015.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under Section 79C and 96 of the Environmental Planning and Assessment Act, 1979.

2.1 SECTION 96 CONSIDERATIONS

The applicant has lodged the application as a Section 96 (2) applications, however the application is a Section 96 (AA) application, being a modification by consent authorities of consents granted by the Court - the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and each person who made a submission in respect of the relevant development application has been notified of the proposed modification by sending written notice and submissions considered as discussed further in the report.

2.2 SECTION 79C (1)(A) PLANNING INSTRUMENTS AND DCP

SEPP (Building Sustainability Index – BASIX) 2004

The applicant has not submitted an amended BASIX certificate with the application. The onus is on the applicant to ensure that the BASIX certificate is relevant to the approved plans prior to the issue of a Construction Certificate, as per Condition 15 of the consent.

SEPP 65 Design Quality of Residential Flat Development

The nature of the modifications proposed does not warrant a review by the Design Review Panel. As per condition 21 of the consent, the supervising registered architect is to ensure that the development is in accordance with the requirements of SEPP 65.

Waverley Local Environmental Plan (LEP) 2012

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

Waverley LEP 2012 – Compliance Table		
Development Control	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal does not contravene the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table B4 Mixed Use Zone	Yes	The mixed use building is permissible within the zone.
Part 4 Principle development standards		
4.3 Height of Buildings 60m Ground Level to Oxford Street RL 84.58	No	Condition 1A of the consent specifies the maximum height of the roof and all equipment and structures on the roof. The whole building is proposed to be increased in height and all structures on the roof, resulting in a breach of

		the 60m height limit. This is discussed in the Issues section below.
Development Control	Compliance	Comment
4.4 Floor space ratio 6:1	Yes	The proposed modifications do not increase the floor space within the development (approved with an FSR of 6.7: 1 with a 15% bonus under the now repealed Clause 4.4B affordable housing). Condition 5 of the consent specifies the approved floor space of the development and this condition remains.
Part 5 Miscellaneous provisions		
5.9 Preservation of trees or vegetation	No	The application seeks to remove the Street Tree at the front of the site. This is not supported by Council's Street Tree Management Officer.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	Conditions have been imposed on the original consent regarding earthworks.
6.5 Active street frontages in the Bondi Junction Centre	Yes	The active frontages to Oxford Street remain as approved.

Waverley Development Control Plan (DCP) 2012

The following assessment relates only to the parts of Waverley DCP 2012 affected by the proposed modification.

Waverley DCP 2012 – Part B General design provisions		
Development Control	Compliance	Comment
1. Waste	Yes	No changes proposed to waste arrangements.
2. Energy and water conservation	N/A	No further consideration required for this part of the DCP, given the nature of modifications made.
5. Tree preservation	No	The application seeks to remove the Street Tree at the front of the site. This is not supported by Council's Street Tree Management Officer.
6. Stormwater management and Flooding	N/A	No modifications to conditions regarding stormwater disposal.
7. Accessibility and adaptability	Yes	The applicant seeks to modify the wording of the condition which relating to accessible car spaces. This is discussed in the table outlining the modifications and is acceptable.
8. Transport	Yes	The modifications seek to modify the ratio of the car spaces allocations, reducing the number of retail spaces and increasing the number of resident spaces (2 car spaces).The total number of spaces however remains at 90. This modification is acceptable.

10. Safety	N/A	The orientation of the building including entrances/exits remains as approved. Conditions have been imposed regarding lighting etc.
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Assessment of Modifications

Proposed modification	Relevant LEP or DCP Controls	Comment
<p>Change to Parking Rates, specifically, Condition 16(a):</p> <p>The proposal shall be amended as follows:</p> <p>(a) Car parking shall be provided at a maximum rate of:</p> <ul style="list-style-type: none"> i. 13 residential visitor spaces; ii. 5 retail spaces; iii. 1 car share space iv. *71 residential spaces; v. Maximum of 90 spaces overall. 	<p>Part B8 - Clause 8.1.1.</p> <p>Minimum Rate for residential and retail is nil.</p> <p>Maximum rate for residential is:</p> <p>0.6 per 1 bedroom 0.8 per 2 bedroom 1.2 per 3 bedroom.</p>	<p>The applicant seeks to change the parking ratios, to provide 2 retail spaces and 74 residential spaces, still retaining a total of 90 spaces.</p> <p>There is no objection to this modification, as there is a nil requirement for retail car spaces and the residential spaces remains within the maximum limit.</p>
<p>Proposing to removal of the existing street tree which has been conditioned to be retained.</p> <p>Requiring a modification to condition 44(a)(b)(c)</p>	<p>Part B5 Tree Preservation</p>	<p>Council's Street Tree Management Officer has reviewed the Arborist report submitted by the applicant and has noted that at this stage, the removal of the trees is not warranted. This aspect of the application is therefore not supported and the condition is to remain.</p>

<p>Modification to wording of Condition 66 "Accessible Car Space" to reflect the relevant Australian Standard. The suggested re-wording of the condition is below.</p> <p><i>"A minimum of 10% of all car parking are to be provided as car spaces for the vehicles of people with disabilities.</i></p> <p><i>The car spaces shall be identified and the retail disabled car space shall be reserved at all times and all disabled spaces (residential and retail) must 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.</i></p> <p><i>The dimensions of car spaces shall comply with the relevant Australian Standards, including AS 4299 and AS 2890.4. These car spaces are to have a minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.</i></p> <p><i>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.</i></p> <p><i>Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate".</i></p>	<p>Part B7 Clause 7.1 Accessibility</p>	<p>Council's Engineer in Traffic and Development have reviewed the request and noted that AS2890.4 doesn't exist and 2890.6 should be used instead.</p> <p>The modification is supported subject to the amended condition as suggested below.</p> <p>The dimensions of car spaces shall comply with the relevant Australian Standards, including AS 4299 and AS 2890.6. These car spaces are to have a minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.</p>
<p>Modification to Condition 68 "Adaptable Housing". The condition is quoted below.</p> <p><i>Access in accordance with AS4299 - Adaptable Housing shall be provided to at least <u>twelve</u> units in the development. Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.</i></p> <p>The applicant seeks to reduce the number of adaptable units from 12 to 10.</p>	<p>Part B7 Clause 7.2 Adaptable Dwellings</p>	<p>According to the DCP, for developments with over 30 units, 10% of the units are to be adaptable.</p> <p>This modification is acceptable as it aligns with the requirements of the DCP.</p>

Modification to extend awning where it previously was to be constructed around the tree canopy	N/A	The modified awning is not supported as the removal of the street tree is considered unnecessary and unreasonable by Council's Tree Management Officer. The awning is to remain as approved, to be constructed around the canopy of the existing street tree.
Modification to amended the size of the louvres and move balcony opening on the northern elevation	N/A	No issues with this modification. The aesthetics of the street facade will generally remain the same.
<p>Modification to roof levels stipulated in Condition 1A MAXIMUM BUILDING HEIGHT LEVELS</p> <p><i>The maximum building height levels approved are:</i></p> <ul style="list-style-type: none"> <i>(a) To the top of the roof slab: RL 145.47</i> <i>(b) To the top of the roof parapet: RL 145.67</i> <i>(c) To the top of all roof located plant and equipment: RL 147.37</i> <i>(d) To the top of the screen surrounding the roof top plant and equipment: RL 147.46</i> <i>(e) To the top of the glazed screen surrounding the communal open space: RL 147.57</i> <i>(f) To the top of the fire stairs enclosure: RL 148.56</i> <i>(g) To the top of the lift overrun: RL 148.81</i> 	<p>Development Standard Clause 4.3 Height of buildings</p> <p>Control: 60m</p>	<p>The applicant has requested that the height of the building is <i>'required to be raised as a result of detailed engineering design review of the proposal. The review found that each level within the development has to be raised slightly in order to accommodate the relevant structural loads and forces that the development would need to carry'.</i></p> <p>This matter is discussed in detail in the Issues section of this report.</p>
Modification to RL's on each level of the building	<p>Development Standard Clause 4.3 Height of buildings</p> <p>Control: 60m</p>	As noted above the modified RLs are proposed due to a more detailed engineering review of the building.

<p>Deletion of wind protection screens</p> <p>The wind assessment provided with the original application which was approved during NSW LEC proceedings notes that wind protection screens are not required.</p> <p>The applicant seeks to delete the wind protection screens from the northern and eastern elevations.</p>	N/A	This is discussed in the Issues section below.
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Issues for Discussion

Height

The Statement of Environmental Effects submitted with the application justifies the proposed additional height noting that:

"The detailed architectural design has been subject to detailed engineering design review and assessment. The review and assessment found that each level within the development has to be raised slightly in order to accommodate the relevant structural loads and forces that the development would need to carry. Hence, the resulted [sic] in a slight increase in the floor levels has driven the need to include significant structural elements in the development, including large transfer slabs and beams. This in turn has had an impact on the overall height of the development".

The applicant argues that *"the visual impacts are minor when comparing the overall increase in building height on the context of the expansive views enjoyed by residents in the upper levels of the Oscar Development. Specifically, the proposed modification does not obstruct any iconic views of vistas including to Sydney Harbour, the Sydney Opera House, Sydney CBD or North Sydney. The residents of the apartments on the upper levels of the Oscar development experience views to these iconic vistas and views from a number of vantage points".*

In consideration of the justification provided by the applicant, it is noteworthy that the original Development Application for this site (DA-539/2013)(which was subsequently refused by the JRPP) was submitted with a statement from BG & E Pty Limited, chartered consulting engineers, stating that *"based on our review we believe that there is a structural solution for this building which will enable the construction of the proposed design intent"* dated 18 November 2013. That building design however was not approved, but was taller and had more floor space than the scheme that was approved by the Land and Environment Court which is to be modified under this application.

In addition, whether the amended design of the building that was approved by the Court could be constructed was discussed and considered in the Land Environment Court appeal proceedings.

This application seeks to modify that approved building envelope adding additional height to the building due to structural reasons, however no evidence from a structural engineer has been submitted with this application verifying that there is no other means of constructing the building without adjusting the approved building height.

Turning to the merit issues of the breach in the height limit, during the Land Environment Court proceedings, it was agreed by the experts and the commissioner that a minor breach to the height limit of the building (which is now approved) was acceptable, as it would result in minimal shadow and view loss to adjoining properties. Also, It is specifically outlined in the judgement of DA-

539/2013, paragraph 21 where it is documented that both experts agreed that in order to minimise interference with views plant equipment on the roof should be limited to RL 147.46 (the judgement is attached for the benefit of the panel). The height of the building was so contentious that the approved RL's for each component of the roof slab, parapet, plant and equipment was specified in Condition 1A.

With this in mind, the modifications to the height of the building were considered. The table below demonstrates the increase in height of the building. As a reference point, the table below shows the height of the building refused in the original scheme presented to Council and the JRPP, the height of building approved by the Land and Environment Court and the proposal presented in this Section 96 modification application.

HEIGHT As specified by condition 1A in development consent DA-539/2013	Height of scheme REFUSED by JRPP under DA-539/2013	Height of the scheme APPROVED BY NSW LEC under DA-539/2013 Condition 1A	Height of the current scheme PROPOSED Section 96 DA-539/2013/B
Top of roof slab	RL 149.57	RL 145.47 Height - 60.89m	SSL 145.62 +0.15m Height - 61.04m
Top of roof parapet	RL 152.915	RL 145.67 Height - 61.09m	RL 145.82 +0.15m Height - 61.24m
Top of all roof located plant and equipment	Unspecified	RL 147.37 Height - 62.79m	147.61 +0.24m Height - 63.03m
Top of the screen surrounding the roof top plant and equipment	RL 154.315	RL 147.46 Height - 62.88m	RL 147.61 +0.15m Height - 63.03m
To the top of the glazed screen surrounding the communal open space	N/A to original scheme	RL 147.57 Height - 62.99m	147.74 +0.17m Height - 63.16m
To the top of the fire stairs enclosure	Unspecified	RL 148.56 Height - 63.98m	RL 148.86 +0.3m Height - 64.28m
Top of the lift overrun	RL 154.715	RL 148.81 Height - 64.13m	RL 150.30 +1.5m Height - 65.72m

* Height above existing ground level is RL 84.58 - from Oxford Street frontage.

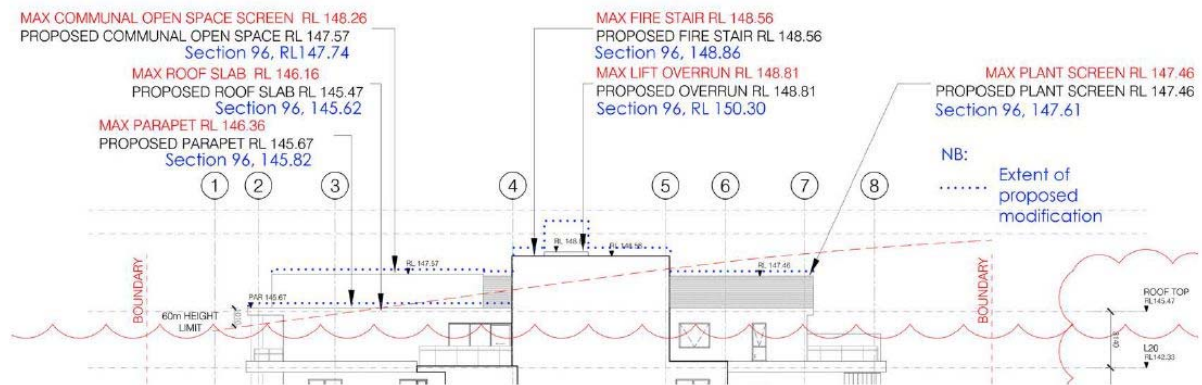


Figure 3: West Elevation

NB: Blue dotted line shows indicative extent of proposed modification

Figure 2: Proposed changes to roof levels and plant

The Development Building Unit (DBU – The Planning manager group of Building Waverley) is concerned with any increase in height of the building after the extensive and considered deliberation in the Land and Environment Court proceedings, especially when justified for structural reasons with no evidence provided from a structural engineer or mechanical engineer (for the lift over run).

When considering the increase in the height of the actual building (roof slab and parapet), the proposed increase is 150mm, raising the building from the approved 60.89m to 61.04m. This increase in the height is considered minor and a structural miscalculation of this nominal nature is palatable by the DBU as it will not be visually obvious or evident when the building as a whole is completed.

With regards to the plant equipment, the DBU agree with the experts opinion in the Land and Environment Court judgement who concluded that no part of the plant equipment on the roof should exceed RL 147.46. In this proposal, both the plant equipment and screen are proposed to be RL 147.61, this is 150mm higher than that bench mark set by those experts. This is a result of the building being increased by 150mm for structural reasons. Again the 150mm is considered a nominal figure and this is accepted.

The glazed screen to surround the communal open space is proposed to be increased by 170mm. The applicant has not identified why this screen (wind, privacy or aesthetic) is to be increased by 170mm, when the building is only increased by 150mm. It is therefore recommended that the screen is only to be increased by 150mm in proportion to the raised height of the building.

The most significant height increase proposed is for the fire stairs enclosure and the lift over run. On the approved scheme, the fire stair and lift overrun were a similar height, with the lift overrun only 150mm higher than the fire stair. It is proposed in this modification that the lift over run is proposed to be 1.44m higher than the fire stair enclosure. The Statement of Environmental Effects offers no explanation for this significant increase, nor provided supporting information from either a mechanical engineer or Building Code of Australia Report to attest that these structure are required to be increased to such a level.

Given the extent of departure from the approved plans, and lack of technical evidence to support

an increased in the height of the fire stair and lift to be increased by 300mm - 1.5m respectively, the DBU are unwilling to accept that this modification is required and therefore this component of the proposal is not supported.

Indeed, the applicant has indicated verbally, that an alternative solution can be sought for the lift overrun. It is therefore recommended that the RL for the fire stair and lift over run only be permitted to increase 150mm, as permitted for the building. This is considered reasonable, based on the information submitted by the applicant.

The overall increase in the height of the building is 150mm, which is considered a nominal increase and minor non compliance with the 60m height development standard. The building will remain to comply with the height control when viewed from Pine Lane. The roof plant and screening will exceed the height limit, however that will only occupy a portion of the roof. The increase to the height of the lift over run and stair is only supported on the basis that it will only be increased by 150mm in proportion to the building. A condition is recommended to this effect.

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

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.

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

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

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

The modification application was notified and advertised for 30 days in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*.

One submission was received from a Planning Consultant representing 2A Hollywood Ave, 251 Oxford Street & 257 Oxford Street.

Issue: No nexus for the proposed increase in the height of the building

Response: The planning consultant has argued that there is no justifiable nexus for the proposed increase in height, noting that it is against the RL's outlined in the consent and agreed in the Land and Environment Court proceedings. The objection also outlines that there will be visual and view impacts to the adjoining properties. This has been discussed in the body of this report and the overall increase of 150mm is considered nominal and accepted. Any increase beyond 150mm is not accepted and plant is to be contained within those adjusted limits specified in condition 1A. (ie. all increased by 150mm).

Issue: Concerns regarding parking re-allocation

Response: The objection raises concerns regarding increased traffic as result of the loss of 2 retail spaces (and re-allocation of those spaces to residential). The DCP has a minimum requirement of Nil for both retail and residential car parking. The development will still provide 2 retail car parking spaces, therefore there is no justified reason to refuse this aspect of the application.

2.6 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

Creating Waverley- (Manager Transport and Development) The modifications to the conditions relating to the ratio of the car parking allocation and the changes to the Australian Standards were considered and are accepted on merit, as discussed with the assessment tables in this report.

Clean and Attractive Waverley - (Tree Planning Officer) - The application seeks to remove the street tree at the front of the site, which is required to be retained as per condition 44 of the development consent. Council's Tree Planning Officer has inspected the tree and does not agree that it requires removal. The condition is therefore to remain.

4. SUMMARY

This S96(2) application seeks modifications to the building of a detailed engineering design and assessment of the approved building. As a result the application seeks modifications to all floor levels within the building resulting in an increase to the overall height of the building by 150mm to 1.5m. The approved FSR of the building is to remain as approved.

The application also seeks minor modifications to internal layout, balconies and louvres, the removal of the street tree and consequent modification to the front awning. The application also seeks to modify the wording of conditions including modification to the ratio of car parking allocation. These elements have been discussed within the report and are considered acceptable.

The DBU reviewed the proposed increase in height with careful consideration given the extensive assessment that took place during the Land and Environment Court proceedings and the previous assertions that the approved building could be built as designed. The applicant has not provided evidence from a structural or mechanical engineer regarding the amendments proposed, and for that reason, the DBU only agrees to a minor increase of 150mm to the whole building.

During the exhibition period, one submission were received from a planning consultant representing the three surrounding buildings to the east, west and south of the site. The issues raised in the submission relates to the increased height of the building and re-allocation of car parking spaces. Those matters have been considered and discussed within this report. The matters raised do not warrant refusal of the application in totality. It is recommended that only a portion of the changes to the height of the building be approved ie. only up to 150mm to accommodate the additional structural loads within the building.

The Section 96 modification application is recommended for approval, subject to the amendment of the following conditions which are in red for the benefit of the panel in Appendix A attached to this report. Conditions to be modified.

- Condition 1 - Approved Development
- Condition 1A - Maximum Building Height levels
- Condition 16- General Modifications - Parking
- Condition 66- Accessible Car space
- Condition 68- Adaptable Housing

5. RECOMMENDATION TO THE JOINT REGIONAL PLANNING PANEL

That the Development Application be **APPROVED** by the Sydney East Joint Regional Planning Panel, subject to the amended conditions in Appendix A:

Report Prepared by on behalf of the Development Building Unit:

Beth Matlawski - Senior Development Assessment Planner

Report Reviewed by:

Lee Kosnetter – Manager, Development Assessment Manager South

Mitchell Reid – Executive Manager Building Waverley

APPENDIX A – FULL SET OF CONDITIONS (Modified conditions are in RED)

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT (AMENDED DA-539/2013/A AND DA-539/2013/B)

The development must be in accordance with:

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

DA-102, site analysis plan, revision 1, dated 15.11.13;

DA-103, demolition plan, revision 1, dated 15.11.13;

~~DA-301, section BB, revision 3, dated 09.07.14;~~

DA-302, context site section CC & DD, revision 2, dated 09.07.14;

DA-730, materials and finishes schedule, revision 1, dated 15.11.13;

DA-750, adaptable units, revision 1, dated 15.11.13;

DA-700, typical floor plan, level 6-14 facade detail plan, revision 2 dated 09.07.14;

DA-701, levels 10-15 adjacent building facade detail, revision 2, dated 09.07.14;

DA-702, levels 4-7 boundary detail, revision 1, dated 27.02.14;

DA-703, levels 8-10 and 11-15, boundary detail, dated 27.02.14;

DA-704, section detail, 3m setback dedication, dated 27.02.14;

(i) Architectural Plans prepared by Mijollo International received on 3 December 2014 for Section 96 (DA-539/2013/A)

DA-101-3, site plan, revision 3, dated 3.12.14;

DA-200-2, basement 3, revision 2, dated 1.12.14;

DA-201-2, basement 2, revision 2, dated 1.12.14;

DA-202-2, basement 1, revision 2, dated 1.12.14;

DA-203-4, level 1, revision 4, dated 1.12.14;

DA-204-4, level 2, revision 5, dated 17.09.14;

DA-205-2, level 3, revision 2, dated 17.09.14;

DA-206-3, level 4, revision 3, dated 17.09.14;

DA-207-4, level 5, revision 4, dated 17.09.14;

DA-207A-1, level 6, revision 1, dated 17.09.14;

DA-208-3, level 7-14, revision 3 dated 01.12.14;

DA-209-3, level 15, revision 3, dated 01.12.14;

DA-210-3, level 16, revision 3, dated 01.12.14;

DA-211-3, level 17, revision 3, dated 01.12.14;

DA-211A-4, level 18, revision 4, dated 01.12.14;

DA-212-7, level 19-20, revision 7, dated 01.12.14;

~~DA-214-6, level 21(ROOF), revision 6, dated 01.12.14;~~

~~DA-300-4, section AA, revision 4, dated 17.09.14;~~

~~DA-400-5, north elevation, revision 5, dated 17.09.14;~~

~~DA-401-4, south elevation, revision 4, dated 17.09.14;~~

~~DA-402-5, west elevation, revision 5, dated 17.09.14;~~

~~DA403-4, east elevation, revision 4, dated 17.09.14;~~

DA-951-3, GFA diagram B, revision 3, dated 1.12.14;

A951-3, GFA diagram A, revision 3, dated 1.12.14;

Loading Dock Sketches (figure 1 and figure 2) submitted on 3.12.14;

**(ii) Architectural Plans provided by Mijollo International received on 23 December 2014 for
Section 96 (DA-539/2013/B)**

DA-214-7, Plan Level 21(ROOF), revision 7 dated 16.12.14;

DA- 300-5, Section AA, revision 5, dated 16.12.14;

DA301-4, Section BB, revision 4, dated 16.12.14;

DA-400-6, North Elevation, revision 6, dated 16.12.14;

DA-401-5, South Elevation, revision 5, dated 16.12.14;

DA402-6, West Elevation, revision 6, dated 16.12.14;

DA-403-5, East Elevation, revision 6, dated 16.12.14;

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

- (l) Construction Environmental Management Plan prepared by 'Legacy Property', undated and received by Council on 10 December 2013;
- (m) Schedule of external finishes board received by Council on 10 December 2013; and
- (n) Waste Management Plan prepared by 'Elephants Foot recycling solutions' revision C, dated November 2013 and received by Council on 10 December 2013.
- (o) Geotechnical Report Ref: 22917SBprt prepared by JK Geotechnics dated 2 May 2014, and received by Council on 7 May 2014.

Except where amended by the following conditions of consent.

1A. MAXIMUM BUILDING HEIGHTLEVELS (AMENDED DA-539/2013/B)

The maximum building height levels approved are:

- (a) To the top of the roof slab: RL 145.62**
- (b) To the top of the roof parapet: RL 145.82**
- (c) To the top of all roof located plant and equipment: RL 147.61**
- (d) To the top of the screen surrounding the roof top plant and equipment: RL 147.61**
- (e) To the top of the glazed screen surrounding the communal open space: RL 147.72**
- (f) To the top of the fire stairs enclosure: RL 148.71**
- (g) To the top of the lift overrun: RL 148.96**

2. SURRENDER OF DEVELOPMENT CONSENT

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

3. CONSULTANT REPORTS

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

4. SITE CONTAMINATION

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

5. AFFORDABLE HOUSING INCENTIVE (AMENDED DA-539/2013/A)

- (a) For the purposes of this condition:

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

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

- (i) has a gross income that is less than 120 per cent of the median household income for the time being for the Sydney Statistical Division (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or
 - (ii) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme.
- (b) Pursuant to clause 4.4B(3) of the Waverley Local Environmental Plan 2012 the gross floor area of the development must not exceed 7,784sqm which includes an affordable housing incentive of 758sqm.
- (c) Pursuant to clause 4.4B(4) of the Waverley Local Environmental Plan 2012 prior to the issue of any occupation certificate the applicant will nominate a mix of dwellings which have a total gross floor area of at least 379sqm and will provide this nomination in writing to Council.
- (c1) The dwellings nominated in 5(c) (being at least 50% of the affordable housing incentive of 758sqm) must be used for the purpose of providing affordable housing in the development and for at least 3 years from the date of issue of the occupation certificate for the development such dwelling(s) will be made available for rent as affordable housing and will be managed by a registered community housing provider endorsed by Waverley Council.
- (d) In accordance with clause 4.4B(4)(c) of Waverley Local Environmental Plan 2012 a restriction will be registered, before the date of the issue of any occupation certificate, against the title of the property on which the development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements in condition 5(c1) are met.

6. DELETED

7. ROAD WIDENING

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

8. WORKS ON PINE LANE

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

9. BOUNDARY LEVELS

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

10. TERMS OF RESTRICTIONS, COVENANTS AND EASEMENT

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

11. DETAILED PUBLIC DOMAIN PLAN

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

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

12. PRIVACY MEASURES AND DETAILS

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

- (a) The planter boxes located on the terrace along the perimeter of unit No 4.01 on level 4 shall be widened to have a minimum (soil) width of 400mm;
- (b) Privacy louvre screens along the western elevation shall be fixed in place (include the angle of the louvre blades);
- (c) Privacy louvers screens on the level 15 balcony of unit 15.01 (accessed from bedroom) shall be rotated to be in the opposite direction to match the louvre angle of the front balcony (accessed from living/dining) and fixed in place to reduce the scope for overlooking of the adjacent balconies at 251 Oxford St.

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

13. PROVISION OF PUBLIC ART

Public Art shall be incorporated into the new development and confirmation of the provision of public art to the development is required to a value of \$40,000. In this regard, it is recommended the applicant refer to Council's 'Public Art in the Private Domain' manual and Public Art Committee. Specific details and design of the proposed public art feature shall comply with 'Public Art in the Private Domain Guidelines' which can be viewed on Council's website and by liaising with Council's Cultural Development Officer.

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

14. STORAGE FACILITIES

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

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

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

15. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

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

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

16. GENERAL MODIFICATIONS – PARKING (AMENDED DA-539/2013/B)

The proposal shall be amended as follows:

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

- i. 13 residential visitor spaces;
- ii. **2 retail spaces;**
- iii. 1 car share space
- iv. ***74 residential spaces;**
- v. Maximum of 90 spaces overall.

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

- (c) Ownership of car park lot spaces within the basement shall be limited to parties owning a unit (commercial/residential) within the building and limited to 2 car spaces to any one unit (with the exception of unit 1801 which is permitted to have 3 allocated car spaces).

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

17. DELETE

18. GENERAL MODIFICATIONS – THROUGH SITE LINK

The proposal shall be amended as follows:

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

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

19. THROUGH-SITE LINK – OXFORD STREET TO PINE LANE

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

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

20. 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.

21. ARCHITECT TO SUPERVISE DESIGN (AMENDED DA-539/2013/A)

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.

22. BONDI JUNCTION 3D CAD MODEL REQUIRED

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

The data required to be submitted must include and identify:

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

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

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

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

23. ROLLER SHUTTERS

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

24. DELIVERY OF GOODS

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

25. NO APPROVAL FOR ON-STREET PARKING CHANGES

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

26. NOISE - PLANT

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

27. NOISE EMISSIONS

The use of the premises shall not give rise to:

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

28. AIR EMISSIONS

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

29. REFRIGERATION UNITS & MECHANICAL PLANT

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

30. 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).

31. 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.

32. SEPARATE APPLICATIONS FOR NON-RESIDENTIAL USES

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

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

33. SEPARATE APPLICATIONS FOR FOOD PREMISES

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

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

34. SEPARATE APPLICATION FOR OUTDOOR SEATING

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

35. SEPARATE APPLICATION FOR STRATA SUBDIVISION

The strata subdivision of the development will require separate consent. In this regard, the strata plan is to allocate car parking spaces to specific residential and commercial units within the development.

36. BUILDING TO BE WRAPPED

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

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

37. 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.

38. 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.

39. WASTE MANAGEMENT (AMENDED DA-539/2013/A 39E AND 39Q)

- (a) Waste is to be handled with and disposed of in accordance with the approved Site Waste and Recycling Management Plan (SWRMP), prepared by Elephants Foot Recycling Solutions dated 13 November 2013.
- (b) The development must have a bin storage point for a minimum 7 x 660L MGBs for general waste collected weekly, 13 x 240L MGBs for recyclables collected weekly, 6 x 240L MGBs for paper and cardboard collected weekly, 1 x 240L MGB for garden organics collected fortnightly with additional space available for an extra 3 x 240L MGB for paper/cardboard and 3 x 240L MGB for recyclables if required.
- (c) The residential and commercial waste storage areas must be separated.
- (d) The waste and recycling storage areas must be bunded to the sewer and be equipped with a supply of hot and cold water mixed through a centralised mixing valve with a hose cock.
- (e) The waste and recycling storage areas must be able to accommodate all bins and no bins are to be stored on common or public land. All waste and recycling storage areas to be used by residents must be designed in a manner to ensure all bins are simultaneously accessible.
- (f) The waste and recycling storage rooms must be built to meet all design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 in the Waverley Council Development Control Plan.
- (g) The development must have a room or caged area with a minimum volume 4m³ available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up

- (h) The development must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area.
- (i) A waste and recycling compartment/area is required on each floor with sufficient capacity to store a minimum of 1-2 day's volume of waste and recycling likely to be generated on that floor.
- (j) Composting facilities which meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan must be provided at this development.
- (k) Should the waste generated from the commercial premises contain 20% or more food waste, a daily waste collection will be required.
- (l) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (m) Separate space must be allocated for the storage of liquid wastes and oils. The liquid waste storage area must be undercover, bunded and drained to a grease trap.
- (n) Liquid waste from grease traps must only be removed by licensed contractors approved by Sydney Water and NSW EPA.
- (o) Noise and odour generated from the commercial component of the development must not impact on adjoining properties.
- (p) All businesses at this development must have written evidence, held on-site, of a valid and current contract with a licensed collector of commercial waste and recycling.
- (q) Residential Waste is to be collected on site in the designated loading dock. The loading dock is to have clearances as shown in the drawings/sketches (figures 1 and 2) submitted to Council on 3 December 2014. In addition, all access roads and driveways must comply with BCA and relevant Australian Standards. No bins (commercial or residential) are to be collected from kerb side .
- (r) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager and cleaners.
- (s) Clear and easy to signs identifying the different MGBs and where the MGBs should be stored in the storage area(s) must be displayed.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

40. 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.

41. SECURITY DEPOSIT

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

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

42. 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.

43. LANDSCAPE PLAN

A Landscape Plan for the roof top communal open space area detailing location and form of planting (i.e. planter boxes, pots and the like), heights of planting structures and proposed species, together with surface finishes,

is to be submitted to Council for approval by the Parks and Open Spaces Division of Council prior to the issue of the relevant Construction Certificate.

44. STREET PLANTINGS (AMENDED DA-539/2013/A)

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

- (a) All tree protection specifications for tree protection of Tree 1 – *Eucalyptus botryoides* listed in Appendix 4 and 5 of the Arboricultural Impact Assessment Report, Project No: 253-255/OX/12/AIA/A, (Rev A) prepared by 'Tree iQ' dated 1 August 2012 and received by Council on 10 December 2013 are to be implemented for tree protection.
- (b) The recommendation for removal of Tree 2 – *Grevillea robusta* in Arboricultural Impact Assessment Report, Project No: 253-255/OX/12/AIA/A, (Rev A) prepared by 'Tree iQ' dated 1 August 2012 and received by Council on 10 December 2013 is acceptable and removal should be as per the recommendations of that report.
- (c) A replacement tree (Tree 2) is to be planted on the eastern boundary of the footpath adjacent to the rear of the kerb as shown on the landscape plan (SS12-2494) as drawn by Site Image. The tree is to be a *Magnolia grandiflora* and must be a minimum pot size of 400 litres. The tree is to be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip.
- (d) The trees are to be sourced prior to the issue of the relevant construction certificate and the invoice is to be submitted with the construction certificate.
- (e) A consulting arborist is to submit specifications and design for a tree pit with the construction certificate for Council approval. The design is to include measures to minimise tree root conflict with any adjacent services/infrastructure. Installation of a tree guard and tree grille (Derwent - available from Arborgreen) installed to manufacturer's specifications.
- (f) The consulting arborist is to provide details for cut-outs for the awning at the front of the building to allow for existing and future tree growth for existing and new trees. This awning modification is to be shown on all submitted plans.
- (g) The existing tree stump on the footpath is to be stumpground to below ground level to allow for paving and infrastructure works.
- (h) The consulting arborist to be engaged at the commencement of demolition works to prune tree roots at the line of the existing building on its northern boundary.
- (i) A supervising arborist (minimum Australian Qualification Framework Level 5) is to be engaged prior to any demolition or works on site and must
 - identify key stages where monitoring and certification will be required as outlined in AS 4970/2009, Section 5 in the form of a schedule to be submitted to and approved by Council.
 - be present during any works within the tree protection zone of trees marked for retention and;
 - oversee any approved excavation within tree protection zones is hand dug to ensure no roots greater than 50mm are severed and to clean cut any smaller roots
 - undertake regular site supervision and certify compliance/submit reports to Council and the Principal Certifying Authority at the following phases of work:
 - A. Installation of tree protection measures prior to the issue of a construction certificate

- B. Site establishment works including: bulk earthworks; installation of temporary infrastructure including bunding; sediment/drainage works and demolition of (insert specific details of structures to be demolished within close proximity to TPZs)
- C. During excavation and construction stages for: the installation of services, footings and slabs; works within TPZs and at completion of building works
- D. During any landscape works within TPZs
- E. At practical completion

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

45. LANDSCAPING BOND

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

46. LANDSCAPED SLABS

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

47. DILAPIDATION REPORT

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

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

The dilapidation reports must be completed and submitted to Council and the Principal Certifying Authority with or prior to the Notice of Commencement and prior to the commencement of any development work. The adjoining building owner(s) must be given a copy of the dilapidation report for their building(s) prior to the commencement of any work.

Please note the following:

- a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.

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

48. ACOUSTIC REPORT RECOMMENDATIONS

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

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

49. 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.

50. PROVISION FOR SHAFT FOR FUTURE FOOD PREMISES

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

51. 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.

52. 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.

53. 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.

54. 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.

55. 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.

56. BOUNDARY WINDOWS

All windows on levels 16-19, including units 16.05, 17.05, 18.05 and 19.05, that are both facing and within 3m of the western boundary, must be sealed with fire-rated obscure glass, or otherwise enclosed, prior to the construction of any building immediately abutting, adjoining or adjacent to such windows. The owner and future owner(s) are to acknowledge that these windows are approved on the basis that the future development of adjoining sites may fully or partially obscure these windows. A covenant to the approval of Council is to be placed on the title of the property to this effect and acknowledging the basis of approval of these windows. Evidence of the creation of the covenant is to be submitted prior to issue of the relevant Construction Certificate under the Environmental Planning and Assessment Act 1979.

57. 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.

58. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A Site Waste and Recycling Management Plan (SWRMP) Checklist 2 shall be submitted to the Principal Certifying Authority for approval in accordance with, Waverley DCP 2012 prior to the issue of the relevant Construction Certificate. In this regard, Council expects demolition and excavated material to be reused and/or recycled wherever possible.

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

59. 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.

60. STORMWATER MANAGEMENT

Certification is to be provided from a suitably qualified professional, that the stormwater system has been designed in accordance with the Water Management Technical Guidelines. Stormwater system details are to be submitted in accordance with the Waverley Development Control Plan 2012 - Part B prior to the issue of a Construction Certificate for building work (with the exception of any piling work).

61. 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.

62. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

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

The CVPPM shall provide details of the following:

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

63. BICYCLE PARKING

A total of 113 bicycle parking spaces are to be provided and shall be physically separated and signposted into 101 residential and 10 visitor and 2 retail spaces. Such spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the car parking area. Details are to be indicated on the plans prior to the issue of the relevant Construction Certificate.

64. CONVEX MIRRORS

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

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

65. VISITOR AND RETAIL CAR PARKING

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

66. ACCESSIBLE CAR SPACE (AMENDED DA-539/2013/B)

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

The car spaces shall be identified and the retail disabled car space shall be reserved at all times and all disabled spaces (residential and retail) must be in the vicinity of a lift or as close as possible to public areas and facilities. **The dimensions of car spaces shall comply with the relevant Australian Standards, including AS 4299 and AS 2890.6.** These car spaces are to have a 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.

67. 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.

68. ADAPTABLE HOUSING (AMENDED DA-539/2013/B)

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

69. 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.

70. 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.

71. 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*.

72. USE OF RENEWABLE TIMBERS

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

73. ENERGY AUSTRALIA

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

74. ARCHIVAL RECORDING OF EXISTING BUILDINGS

A brief archival record (at a minimum the front and rear elevations, details of notable elements of each building eg the awning and foyers) shall be prepared of the existing building for deposit in Waverley Council's Archive (2 copies to be submitted). This record must be carried out prior to the removal of any significant building fabric (ie the street awning to the building at 255 Oxford Street) or furnishings from the site and must be submitted to Council prior to the commencement of any demolition work and the issue of a Construction Certificate. The record shall comprise photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s), photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising:

- (a) adjacent buildings, building elevations, and important interior and exterior architectural spaces and features of the building/site;
- (b) a summary report of the photographic documentation; and

- (c) photographic catalogue sheets, which are referenced to a site plan and floor plan, no larger than A3 paper size, and indicating the location and direction of all photos (black & white prints and slides) taken.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

75. 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.

76. STREETScape WORKS - BONDI JUNCTION / LOCAL VILLAGE CENTRES

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

77. 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. MANAGEMENT OF ACIDIC SOIL

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

- (a) To address issues arising from the natural acidity of the soil on-site, any concrete that is in contact with this soil is to be designed to restrict acid and sulphate attack. The *Cement and Concrete Association of Australia Technical Note TN57* is to be adhered to for precautionary measures.
- (b) Prior to the commencement of any works, the applicant shall nominate an appropriately qualified Environmental Scientist to supervise the management of acid sulphate soils. The Scientist shall:
 - i) Provide an acceptance in writing to supervise the aforementioned works to ensure compliance with the relevant conditions of Development Consent.
 - ii) On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of consent.
- (c) The nominated supervising Environmental Scientist shall certify that the management of acid sulphate soil was undertaken in accordance with the Development Consent. Prior to the use or occupation of the building (or Occupation Certificate being issued), the Principal Contractor / Developer shall submit to Waverley Council a copy of the aforementioned Certificate.

83. 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.

84. 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".

85. TOILET FACILITIES

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

86. NO USE OF ORGANOCHLORIN PESTICIDES

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

87. 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.

88. USE OF FILL ON SITE

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

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

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

89. HAZARDOUS MATERIALS AUDIT

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

90. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

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

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

91. 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).

92. COMPLIANCE WITH WORKCOVER NSW REQUIREMENTS

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

93. 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.

94. 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.

95. 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.

96. TEMPORARY DIVERSION OF ROOF WATERS

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

97. 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.

98. 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.

99. NOISE FROM BUILDING WORKS - RESTRICTED ACTIVITIES

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

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

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

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

100. 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.

101. CONSTRUCTION NOISE - PERIODS OF 4 WEEKS OR UNDER

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

102. CONSTRUCTION NOISE - PERIODS GREATER THAN 4 WEEKS

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

103. 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.

104. 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.

105. 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.

106. BUILDING CODE OF AUSTRALIA

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

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

107. 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.

108. 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.

109. IN-SINK WASTE DISPOSAL SYSTEMS

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

110. MECHANICAL VENTILATION

- (a) The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.
- (b) Any proposed mechanical ventilation system shall comply with the Australian Standard AS 1668 - 1991 (Parts 1 and 2). Prior to installation, the design is to be certified by a person competent to do so. At completion of the installation of the system and prior to the issue of the Occupation Certificate, the work shall be certified by a person competent to do so. The certification shall include:
 - (i) inspection, testing and commissioning details;
 - (ii) date of inspection, testing and commissioning details;
 - (iii) the name and address of the individual who carried out the test; and
 - (iv) a statement that the service has been designed, installed and is capable of operating to the above standard.

111. REFRIGERATION UNITS & MECHANICAL PLANT

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

112. NOISE FROM MECHANICAL VENTILATION

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

113. CONTROL OF LEGIONNAIRES DISEASE

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

114. 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.

115. 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.

116. 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.

117. 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.

118. 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.

119. 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.

120. NEW VEHICLE CROSSING

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

121. 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.

122. DISCHARGE OF COMMERCIAL OR INDUSTRIAL LIQUID TRADE

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

123. TREE PROTECTION MEASURES PRIOR TO CONSTRUCTION

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

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

124. 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.

125. TREE PROTECTION

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

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

126. AWNINGS

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

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

130. USE OF ROOF TOP COMMUNAL OPEN SPACE

The roof top communal open space area is to be used only between the hours of 7am – 10pm 7 days per week. The only exception to these hours is New Year's Eve when the hours may be extended to 12.30 am New Year's Day.

127. SYDNEY WATER

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

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator**, since

building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

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

128. ROAD WIDENING

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

129. ALLOCATION OF STREET NUMBER

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

The street number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level on the site boundary that fronts the street. The development is to be numbered using sub addressing. In this regard, the following shall apply when the premises is numbered:

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

Council must be notified of the corresponding unit/shop/office numbers to lot numbers and the street number is to be positioned on the site prior to the issue of the Occupation Certificate. Any variation to the above street numbering requires a new application to be lodged with Council.

130. WASTE STORAGE

The following requirements apply to waste management:

- (a) A waste management plan must be submitted to Council to include all waste removal arrangements such as the Contractor, recyclables and all other waste (collection and disposal), prior to the occupation of the premises.
- (b) Provide a separate waste storage area suitably covered, bunded and drained to the sewer. The waste storage receptacles must be maintained in good order and repair at all times.
- (c) Provide a suitable storage area affectively bunded for chemicals, pesticides and cleaning products.
- (d) Provide a separate storage area for used and unused cooking oils suitably covered, bunded and drained to the sewer.
- (e) Provide dry basket arresters to the floor wastes in the food preparation and waste storage areas.

- (f) Confer with Sydney Water regarding whether a Trade Waste Agreement is required. A copy of the agreement shall be forwarded to Council if one is entered into with Sydney Water.

131. PARKING PERMITS

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

132. RECYCLING OF WASTE PAPER

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

133. DISPLAY OF WASTE MANAGEMENT PLAN

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

134. CERTIFICATION – NOISE: PLANT AND EQUIPMENT

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

135. NOISE ATTENUATION CERTIFICATE

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

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

136. SLIP TESTS OF COMMON AREAS

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

137. 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.

138. TELECOMMUNICATIONS

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

139. TACTILE NUMBER IN LIFT

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

140. STREET NUMBER/S

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

141. LIGHTING

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

142. 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.

143. NOISE – PLANT AND EQUIPMENT

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

144. REGISTRATION OF COOLING TOWERS

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

145. 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.

146. USE OF FOOR TOP COMMUNAL OPEN SPACE

The roof top communal open space area is to be used only between the hours of 7am to 10pm 7 days per week. The only exception to these hours is New Year's Eve when the hours may be extended to 12:30am New Year's Day.