



## Report to the Sydney Central Planning Panel

<b>Panel Reference</b>	<b>2017SCL010 DA</b>
<b>DA Number</b>	DA-89/2016
<b>LGA</b>	Waverley
<b>Proposed Development</b>	Demolition of buildings, construction of a fourteen (14) storey mixed use building including residential units, serviced apartments, retail and commercial premises, basement parking and a Planning Agreement
<b>Street Address</b>	362-374 Oxford Street, Bondi Junction
<b>Applicant/Owner</b>	Applicant: Cassa-Nova Pty Ltd (c/- SJB Architects) Owners: <ul style="list-style-type: none"> <li>• Cassa-Nova Pty Ltd – 362-368 Oxford Street</li> <li>• The Rebecca L Cooper Medical Research Foundation – 370-374 Oxford Street</li> </ul>
<b>Date of DA lodgement</b>	<ul style="list-style-type: none"> <li>• Application originally submitted on 16 March 2016</li> <li>• Application deferred on 16 December 2016</li> <li>• Amended proposal, including amended set of plans and additional information, submitted on 13 April and 12 May 2017</li> </ul>
<b>Number of Submissions</b>	Six submissions received
<b>Recommendation</b>	Approval, subject to conditions of consent
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	General development with a capital investment value (CIV) greater than \$20 million (the CIV of the development is \$24,150,000)
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 - Remediation of Land</li> <li>• State Environmental Planning Policy 65 - Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Waverley Local Environmental Plan 2012</li> <li>• Waverley Development Control Plan 2012</li> <li>• Waverley Planning Agreement Policy 2014</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Amended architectural plans</li> <li>• Landscape plans</li> <li>• Statement of Environmental Effects</li> <li>• Clause 4.6 Exception to height of buildings and floor space ratio development standards</li> <li>• Copy of submissions</li> </ul>
<b>Report prepared by</b>	Ben Magistrale (Senior Development Assessment Planner, Waverley Council)
<b>Report date</b>	10 August 2017

**Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

**Yes**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?

**Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**No**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## **EXECUTIVE SUMMARY**

The application seeks development consent to demolish all existing terrace shops (with the exception of their street façade) and construct a 14 storey shop top housing development comprised of five levels of basement car parking and services, ground floor retail shops, first floor commercial tenancies, 14 serviced apartments and a total of 70 residential apartments on the site known as 362-374 Oxford Street, Bondi Junction.

The proposed development provides for a high quality and architecturally distinct building that responds effectively to the site, site context, surrounding building forms and uses, and more broadly, the desired future character of the Bondi Junction Centre. The retail, commercial and residential uses have been designed to provide a high level of functionality, privacy and amenity that satisfies the relevant aims of Waverley Local Environmental Plan 2012 (Waverley LEP 2012) and the objectives of the applicable B4 Mixed Use Zone.

The proposed development seeks to vary the height of buildings and floor space ratio development standards under Waverley LEP 2012. These variations are considered well founded and acceptable on merit given the acceptable solar access, views and other amenity impacts on surrounding properties, appropriate building separation and setbacks achieved, and the compatibility of the development with the existing and desired built form character of the Bondi Junction Centre. The applicant has offered to enter into a planning agreement with Council to make a development contribution for a material public benefit (i.e. funding of public domain improvements and affordable housing within the Waverley local government area) as a means to offset the variation of the floor space ratio development standard.

The proposed development performs well against the design quality principles of State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development as it provides for a high quality mixed use development that relates to the site context, adjoining buildings and will improve the streetscape and Bondi Junction Centre. Any variation to the Apartment Design Guide is considered satisfactory given the high quality building design and the considerable constraints of the subject site within an infill and high density locality.

The issues raised in public submissions received during notification of the application have been detailed and adequately addressed in this assessment report. The issues raised in the submissions do not warrant amendment or refusal of the application.

## **RECOMMENDATION**

That the application, known as DA-89/2016, be approved by the Sydney Central Planning Panel, subject to conditions of consent.

## 1. PREAMBLE

### 1.1 Site and Surrounding Locality

A site visit was carried out on 12 December 2016.

The site is located within the Bondi Junction Centre. As shown in **Figure 1**, the site is located within the street block bounded by Rowe Lane to the north, Newland Street to the east, Oxford Street to the south and Vernon Street to the west.



**Figure 1:** Site and locality map (site outlined in red)

The site is comprised of five allotments, which are legally described as:

- Lot 4 DP 508369
- Lot 7 DP 39086
- Lot 1 DP 163647
- Lot 5 DP 39086
- Lot 6 DP 39086

It is known as 362-374 Oxford Street, Bondi Junction.

The site is irregular in shape with boundaries measuring as follows:

- northern boundary abutting Rowe Lane is 28.62m
- eastern boundary is 30.54m
- southern boundary abutting Oxford Street is 29.34m
- western boundary is 31.33m.

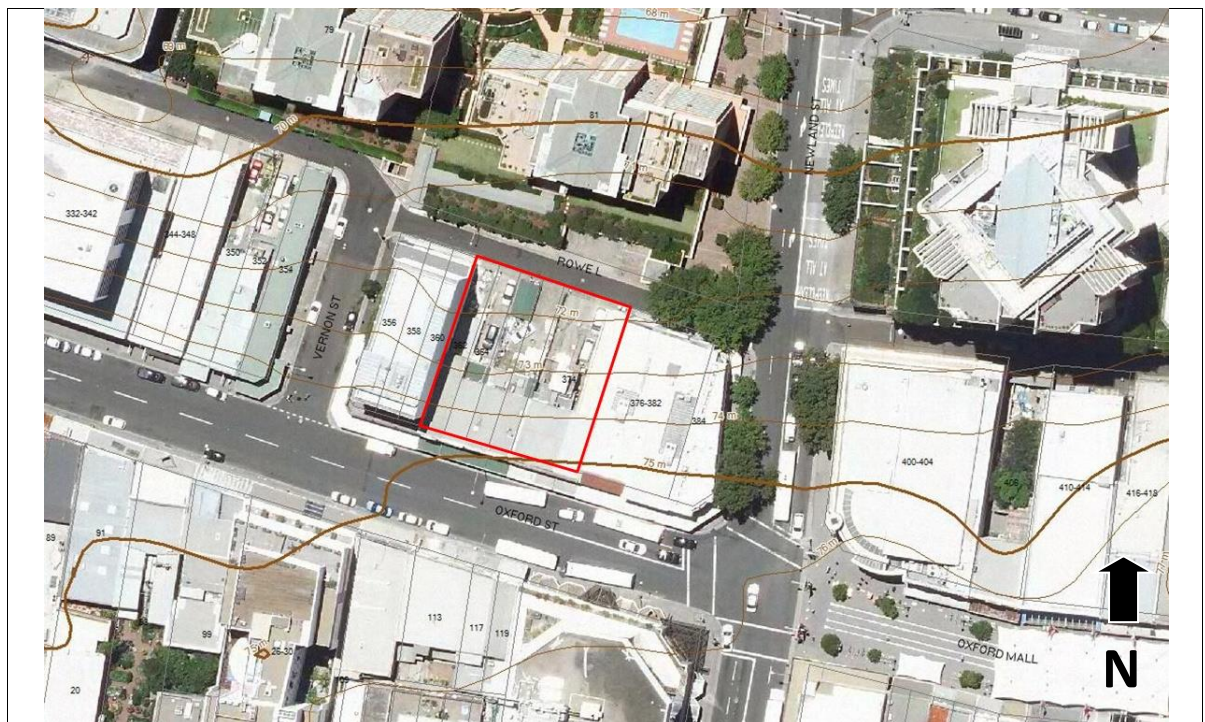
**Figure 2** is an extract from the site survey that shows the dimensions of the lots that comprise the site.





**Figure 2:** Extract from site survey (site outlined in red)

The site has a combined area of 899.8m<sup>2</sup>. Its terrain falls from its Oxford Street boundary towards the Rowe Lane boundary by approximately 4.3m. **Figure 3** is an aerial photography that is overlaid by contours to show an aerial perspective of existing development on the site and its immediate surrounds as well as indicating the topography of the site.



**Figure 3:** Aerial photo of the site (outlined in red) showing contours



The site is currently occupied by a row of seven x two storey terrace shops with their shopfronts orientated to Oxford Street (see **Figure 4**) and hardstand car parking and 'back of house' areas orientated to Rowe Lane (see **Figure 5**). All of these terrace shops form part of the local heritage item known as the 'Imperial Building' and identified as Item '1216' under Schedule 5 of Waverley Local Environmental Plan 2012.



**Figure 4:** Site viewed from Oxford Street, looking north-east



**Figure 5:** Site viewed from Rowe Lane, looking north-west

The immediate locality of the site is the Bondi Junction Centre, which is characterised by a mix of commercial, retail, residential and recreational uses and high density building forms of development. The site is adjoined by:

- a seven storey commercial building, which has retained the street façade of two storey terrace shops as a podium with a five storey tower form above, to the west at 356-360 Oxford Street (refer to **Figure 6**)
- a part two, part three storey commercial building to the east at 376-382 Oxford Street (refer to **Figure 7**).



**Figure 6:** The adjoining commercial building to the west of the site at 356-360 Oxford Street (left-hand side photo of its western and southern elevations as viewed from Oxford Street; right photo of its eastern and northern elevations as viewed from Rowe Lane)





**Figure 7:** The adjoining commercial building to the east of the site at 376-382 Oxford Street as viewed from the western end of Oxford Street Mall, looking north-west

Directly north of the site and across Rowe Lane is a 16 storey residential tower at 81 Grafton Street, which is part of a broader development site containing another 16 storey residential tower known as 79 Grafton Street.



**Figure 8:** The residential towers to the north of the site at 79-81 Grafton Street, looking north from Rowe Lane



Directly south of the site and across Oxford Street are:

- two storey terrace shops between 109 and 119 Oxford Street
- a 11 storey commercial building at 1 Newland Street
- an eight storey serviced apartment tower, known as 'Quest Serviced Apartments', at the site known as 26-30 Oxford Street (refer to **Figure 9**).



**Figure 9:** Existing development opposite the site and on the southern side of Oxford Street, looking south-east

Development consent (reference DA-569/2015) was granted by the former Sydney East Joint Regional Planning Panel in November 2016 for demolition of buildings and construction of a new 12 storey mixed use building at the site known as 109 – 119 Oxford Street and 36-42 Spring Street. The development is yet to be constructed, however Council is aware of early works, including demolition commencing on the site, which provides sufficient evidence to suggest the development consent has been acted upon. A section 96 modification application, known as DA-569/2015/A, has been submitted with Council to add two floor levels above the approved mixed use building, comprising 18 additional apartments, and its assessment has been finalised with a recommendation for approval to the Sydney Central Planning Panel. **Figure 10** is a photomontage of the approved development, as proposed to be modified sought by DA-569/2015/A.



**Figure 10:** Photomontage of the approved development, as proposed to be modified, at the site known as 109 – 119 Oxford Street and 36-42 Spring Street (Source: DJRD Architects)

## 1.2 Background

### 1.2.1 Relevant history

The numerous buildings and sites that form part of the subject site benefit from a significant amount of approvals relating to a variety of building works and land uses. As the subject application seeks consent to demolish all buildings, the development history of the site is irrelevant to understand the background of the subject application.

Notwithstanding, a pre-lodgement application, known as PD-7/2015, was submitted with Council on 10 April 2015 to seek Council's advice on a concept proposal for demolition of existing structures with the retention of the facades of the heritage item on the site; and construction of a 12 storey mixed use development comprised of retail, commercial and residential apartments and basement car parking. Council gave advice to the applicant on 16 June and 28 July 2015. The main points of the advice were as follows:

- built form and apartment amenity considerations under the Apartment Design Guide
- preservation of the heritage elements of the existing development, principally its Oxford Street façade
- compliance with height of buildings and floor space ratio development standards
- achievement of active street frontage to Oxford Street.

### 1.2.2 Subject application

The application was lodged with Council on 16 March 2016. Refer to section 1.3 of this report for a summary of the description and elements of the development.

The application was discussed with Council's Senior Assessment Group comprised of Area Managers of Council's Development Assessment section. Following that discussion, the application was formally deferred on 16 December 2016. The reasons for the deferral are extracted as follows from a letter from Council addressed to the applicant and dated 16 December 2016:

**1. Waverley Local Environmental Plan 2012 (WLEP 2012)**

*The proposed development is considered contrary to a number of provisions within the WLEP 2012, these matters are discussed below.*

**a. Clause 1.2 Aims of Plan and B4 Mixed Use zoning**

*The proposed mixed use building consists of 5.5% (285m<sup>2</sup>) retail space, 10.2% (532m<sup>2</sup>) tourist accommodation and 84.2% (4359m<sup>2</sup>) residential apartments. The proposed mix (by gross floor area) of land uses are contrary to subclauses (2) (a) and (b) in clause 1.2 of WLEP 2012 in relation to aims of the plan and B4 Mixed Use zone objectives which seek to promote a range of commercial and retail uses, maintain and reinforce Bondi Junction as the primary commercial centre in Sydney's eastern suburbs. To address the provisions of clause 1.2 and B4 Mixed Use zone objectives, the proposal is to be amended to incorporate first floor commercial space to the heritage listed buildings and retail gross floor area is to be increased to the site's Oxford Street frontage by incorporating the serviced apartment reception into one of the undersized retail shops (ie. the shop comprised of 33m<sup>2</sup>) and that provides a connection to the serviced apartment lift and residential lifts.*

**b. Clause 4.3 Height of buildings**

*The proposed building seeks considerable variations to the height of buildings development standard, while the change in levels between Oxford Street and Rowe Lane accounts for*



*some of the height variations, the scale of the building is exacerbated by the following design elements:*

- *considerable floor to floor levels, in particular the 3700mm proposed for level 5;*
- *delete the extension of the service apartment lift to the roof; and*
- *excessive scale to the roof top lift overrun, plant rooms and associated enclosure.*

*Where practical the proposed building height is to be reduced.*

*c. Clause 4.4 Floor Space Ratio*

*The proposal development has a calculated floor space ratio (FSR) of 6.15:1 (5,535m<sup>2</sup> of gross floor area) which is well in excess of the FSR of 5.75:1 stated in the Area Calculation - GFA diagrams submitted with the application. As outlined in the PreDA advice the gross floor area of the building must be calculated in accordance with the definition of 'gross floor area' in the WLEP 2012. Council's assessment of the building's gross floor area has included the following areas on ground floor level of the building that are excluded in the submitted Area Calculation - GFA drawing:*

- *residential and serviced apartment entry corridors and lobbies*
- *retail/serviced apartment waste*
- *service corridors*
- *access ways along rear of retail shops*
- *bike storage area.*

*These areas contribute approximately 303.77m<sup>2</sup> of gross floor area to the proposed development.*

*Site area*

*The submitted survey indicates that the site has an area of 899.8m<sup>2</sup>, however the FSR of the development has been calculated on a site area 900m<sup>2</sup>. While the difference is only 1m<sup>2</sup> (in GFA ) the FSR of the development must be calculated on the exact site area. To provide clarity on the exact site area a letter is requested from the surveyor indicating the exact site area*

*d. Clause 4.6 Exceptions to development standards*

*During public notification the submission from the commercial building at 1 Newland Street indicated that the proposed building will obstruct significant views from various levels of the building at 1 Newland Street. As part of this assessment view loss inspections were carried out on levels 9, 10, 11 and 12 of the building. Copies of the photographs are provided to you to undertake a view loss analysis, photographic montages and amend the clause 4.6 exceptions to development standards to address view loss impacts of the proposed development.*

*e. Clause 5.10 Heritage Conservation*

*The demolition works and retention of Oxford Street facades to the heritage listed building at 362-374 Oxford Street has been reviewed by Council's Heritage Architect who generally supports the proposed works with regards to clause 5.10 heritage conservation in the WLEP 2012. However a number of recommendations are provided by both Council's Heritage Architect and in the Heritage Impact Statement and must be addressed in the amended proposal. The amendments include:*

- *Reconstruct the original pairs of timber framed window sashes in each bay on the first floor level of the heritage façades*

- *Restore missing section of the stucco decoration on the facades to match the original detail, this includes the urns.*
- *Retention of front room volumes at first floor and section of the dividing walls at ground and first floors is to be provided as part of any development.*
- *Colours are to be based upon investigation of original colour finishes. Monochromatic colour schemes neutralising historic detail are not supported.*
- *Investigations are to be undertaken to determine the potential for restoring ground floor heritage shop front facades. Where appropriate historic shop fronts (ingoes) are to be reinstated and detailed on the plans. As a minimum, they are to reflect the form, scale, function etc of historic style shopfronts, eg recessed bay entries, bay shopfront windows etc.*
- *A detailed set of architectural drawings are to be submitted regarding the heritage conservation works and restoration works. The plans must show the retention of the existing heritage facades to Oxford Street and associated restoration works including windows, doors and schedule of colours, in the form of a schedule of works associated with in a conservation management plan.*
- *The terraces and privacy walls on the south side of the studio serviced apartments on Level 2 of the building are to be reduced to provide consistency with the tower form and minimise visual intrusion with the heritage facades to Oxford Street. Additional low level landscaping is to be provided between the terrace and heritage facades.*
- *Landscaping should not encroaching over the historic facades*

*f. Clause 6.5 Oxford Street Active Street Frontages*

*To satisfy the provisions of clause 6.5 of the WLEP 20012, the amount of the building frontage dedicated to residential and serviced apartment pedestrian access ways along the Oxford Street frontage of the development is to be reduced and an additional retail shop front is to be provided.*

**2. Amendments to the building form and functionality**

*The proposed podium and tower form of the building is to be amended to address the following matters.*

*a. Rowe Lane*

*To improve the building's presentation to Rowe Lane and generate greater residential accessibility, a large residential lobby is to be incorporated into the Rowe Lane frontage of the building. The residential lobby should at a minimum match the width of the lift core and incorporate a two storey open form to improve the Rowe Lane presentation of the building and aspect and amenity of the entry from Rowe Lane. An open balustrade along the northern side of the ground floor residential corridor of the building should be provided to increase public surveillance, increase solar access and promote cross ventilation between the north and south building entries. To accommodate these changes the plant rooms, waste storage areas and other rooms are to be relocated within alternative parts of the building's basement. All waste storage rooms are to be relocated to the southern side of Basement 1 level (adjacent to the loading bay) of the building to enable efficient and effective waste management on the premises. This will require the retail car parking to be redesigned and potentially parking on Basement 1 level to be deleted. In the event retail car parking is deleted from Basement 1 level, retail parking is to be incorporated into the lower levels of the basement by deletion of residential car parking which currently exceeds the numeric off-street car parking rate control in Part B8 Transport of the Waverley DCP 2012 (Amendment No. 4).*

*The proposed loading bay width appears oversized and excessive, this area is could be better utilised for a bike storage space/room that can be directly accessed from the residential lobby to Rowe Lane. It is hoped that the convenient location of the bike storage room will promote cycling among residents and reduce reliability on vehicles. The Rowe Lane residential entry will also enable a more direct connection to the Bondi Junction Bus and Train terminal. The bicycle storage room could be a visually interesting and architecturally resolved component of the residential entry experience.*

*b. North tower*

*The north tower floorplate of the building extends to both of the site's side boundaries, which provides an excessive bulk and scale and reduces solar access to residential apartments in the south tower. The north tower floorplate is excessive and not supported above Level 7 of the building. To reduce the bulk and scale of the north tower and to improve the solar access and cross ventilation to apartments within the building, the north tower is to be amended as follows:*

- On Levels 7 to 13, at least one 1 x bedroom unit (or approximately 58m<sup>2</sup> of gross floor area) is to be deleted and the tower is to be set back at least or greater than 3 metres from the site's eastern and western side boundaries. The setbacks of the tower from both side boundaries will allow windows to be provided to the east and west elevations of the building to improve solar access and ventilation to the apartments on each level. Windows to side elevations are not to be excessive, the windows are to be adequately sized and positioned to improve solar access and ventilation, however not oversized so as to unreasonably impact on the future redevelopment of adjoining sites. The north tower must not be extended towards the north or south of the site as part of this amendment. This will allow for and should reinforce a 'podium' style response to the existing building to the west and inform the block edge form for any future redevelopment to the building to the east.*
- The horizontal banding to the east, west and south elevations of the south tower is to be included on Levels 12 and 13 to provide design consistency and to reduce the extent of glazing to the elevations, especially to the side elevations. In addition, privacy battens should be provided to ensure visual privacy conflicts do not occur with the redevelopment of adjoining sites.*

*c. South tower*

*The gross floor area on Levels 3 to 13 of the south tower may also need to be reduced to accommodate a GFA of 5.75:1 across the site. Reductions should be focused at levels 3 and 4 to provide a greater visual separation between the podium and tower, and if required from the upper tower levels, this should be accommodated by shaving off from the front setback zone without jeopardising the articulation and form of the architecture of the tower (ie – building curves, spandrels, etc. The reduction to the overall gross floor area of the building must not reduce the size of the apartments to less than the minimum internal areas specified in Objective 4D-1 of the Apartment Design Guide.*

*d. Roof plant and communal residential use terrace*

*The proposed roof plant and communal use terrace is to be amended as follows:*

- The enclosed lift overrun constructed from metal battens result in excessive bulk and scale to the roof plant and lift overrun level of the building. The height and size of the overrun and plant structure is to be reduced considerably. Only a small covered and open portion of the roof will be supported, similar to the roof over the lifts to the development at 304-308 Oxford Street.*



- *The serviced apartment lift is to be deleted from the lift core above Level 2 of the building and the serviced apartment lift must not provide access to the roof terrace. The lift core at all levels (above Level 2) is to be amended to incorporate this change and where possible the size of the lift core is to be reduced.*
- *The plant area comprising of stacked air-conditioning (AC) units is not supported and is to be deleted. The submitted floor plans appear to indicate AC units will be provided on the balconies of individual apartments.*
- *The glass balustrades to the perimeter of the north and south facing roof terraces appear to have little relationship with the materiality of the building. Perhaps the masonry banding expressed on the tower levels below could be replicated as a balustrade, but should remain behind the edge of the building.*

#### **SEPP 65 Design Review Panel Recommendations**

*A number of comments and recommendations were provided by the SEPP 65 Design Review Panel, the following recommendations are to be incorporated into the amended proposal.*

##### **a. Built form and scale**

*The following recommendations are supported and are to be included in the amended drawings:*

- *The use of plenums for single orientation units is strongly supported and these are to be detailed in the sections, plans and elevations.*
- *The balconies to upper levels should be increased to 1200mm and screening is to be provided to the open corner/sides to protect the visual privacy of neighbouring sites.*
- *Level 1 floor to ceiling heights are to be increased to 3.5m to accommodate the commercial use and to comply with the ADG requirements.*
- *Bathrooms are to have operable windows where practical.*
- *The combined residential, serviced apartment, commercial lobby to Oxford Street can have a double height (void to level 1).*
- *The enclosed Rowe Lane façade at the lower levels is to be revised to improve solar access and natural ventilation to residential uses within the building.*

##### **b. Sustainability**

*The following recommendations are supported and are to be included in the amended drawings:*

- *Ceiling fans are to be provided in habitable rooms and indicated on the drawings, to increase amenity and reduce the need to use air conditioning.*
- *Solar protection of windows requires further consideration and improved solar protection measures incorporated.*

##### **c. Landscape**

*The following recommendations are supported and are to be included in the amended drawings:*

- *Proposed trees to the south elevation indicate large trees however the landscape plan indicates palm trees, this is to be clarified and resolved as part of the review.*

##### **d. Amenity**

*The following recommendations are supported and are to be included in the amended drawings:*

- *All room dimensions need to be clearly indicated for internal room sizes and to comply with the requirements of the ADG.*

e. *Aesthetics*

*The assessment officers agree with the DRP that the architectural expression of the building is promising but not sufficiently committed in the DA drawings and documentation. The following recommendations are supported and are to be included in the amended drawings:*

- The rapport between the finishes and the body of the building needs further development, and elements such as external screen, curved glass corner windows and balcony spandrels need to be carefully detailed, and the interaction of the serviced apartment bays to the Rowe Lane elevational treatment.*
- The building requires both a durable and high quality façades that do not require frequent maintenance.*
- The indents on both front and rear facades should be increased to improve the articulation of the building. This should be better modelled in the drawings and perspectives.*
- The proposed black and white painted spandrels and panels are not supported. Alternative materials such as raw face concrete should be investigated and pursued, provided a cohesive relationship can be provided with the heritage façade.*
- Proposed trees to the south elevation indicate large trees however the landscape plan indicates palm trees, this is to be clarified and resolved as part of the review.*

**3. Waverley Development Control Plan 2012 (Amendment No. 4)**

- a. *Part B8 – Transport – The amendments will require the redistribution of gross floor area and land uses within the building. The amended proposal must comply with the car parking, motorcycle and bike parking rates specified in Part B8 of the WDCP.*

**4. Additional Information and documentation**

- a. *The following reports/studies are required to satisfy the relevant provisions of the Waverley Development Control Plan 2012 (WDCP 2012):*
- i. Section 2.6 of Part B2 Energy and Water Conservation requires the submission of an Energy Assessment Report (see page 31 of the WDCP 2012); and*
  - ii. Control (c) under section 1.22 in Part E1 Bondi Junction requires the submission of a wind tunnel study (see page 258 of the WDCP 2012). The study is to specifically address the proposed central residential corridors exposure to wind impacts and provide recommendations (if required) to mitigate impacts against this residential elements.*
- b. *A letter is to be submitted from the Principal Geotechnical Engineer specifically detailing that the Oxford Street heritage facades of the listed buildings can and will be retained during the demolition, excavation and construction works on the sites. In addition a detailed façade retention plan is to be submitted indicating the existing façade locations and dimensions including that all the Oxford Street facades will be retained.*

During the course of the deferral of the application, the applicant met with Council officers on a few occasions to respond to the design matters of the development raised in the deferral, which principally focused on the eastern side setback of the northern wing of the tower form of the development. The applicant undertook modelling exercises to envisage the block form and building envelope of any future development on the adjoining properties to the east of the subject site at 376-384 Oxford Street. The exercises revealed that a minimum eastern side building setback of 3m is appropriate to provide balanced visual separation between the subject tower and a future tower form at the adjoining property.

On 13 April 2017, Council received amended architectural plans and additional information in response to the deferral matters. Not all of the documentation received by Council on 13 April 2017 was deemed sufficient with regard to the level of information asked for and expected by the deferral. A further information request was made by Council on 20 April 2017 in an email to the applicant, which is summarised as follows:

- submission of an energy assessment report
- further details from a structural engineer on the methodology for the retention of the Oxford Street façade during site works
- revision of written requested made under clause 4.6 of Waverley LEP 2012 to justify contravening development standards in response to the amended form of the proposal
- revision of the Design Verification Statement and Design Quality Principles statement relating to State Environmental Planning Policy No 65 and a response against Parts 3 and 4 of the Apartment Design Guide in response to the amended form of the proposal.

On 12 May 2017, Council received the additional information asked for in the email dated 20 April 2017. Another set of amended plans were received on this date, however they do not differ from the set received on 13 April 2017. The design amendments are summarised in section 1.3 of this report, which explains why these were not deemed necessary to be exhibited to the public. The amended plans received by Council on 13 April 2017 form the basis of the development as sought in this application and the assessment of the application is based on these plans.

### **1.3 Proposal**

The application, as amended on 13 April 2017, seeks development consent for the following works:

- demolition of existing structures with the exception of the two storey Oxford Street façade of the heritage item, known as ‘The Imperial’, which is proposed to be retained, restored and incorporated into the redevelopment of the site
- earthworks, specifically excavation and provision of fill
- construction of a 14 storey ‘shop top housing’ development, comprising:
  - six levels of basement car park with a total of 88 off-street parking spaces, containing:
    - sixty-three (63) residential car parking spaces
    - eleven (11) dedicated visitor car parking spaces
    - seven (7) adaptable spaces
    - three (3) retail car parking spaces
    - two (2) serviced apartment car parking spaces
    - one car share space
    - one visitor/carwash bay
    - a loading bay and serviced apartment pedestrian entry foyer/lobby on Basement Level 1
    - fifteen (15) motorcycle spaces
  - six (6) retail tenancies addressing Oxford Street, apartment entry foyer/lobby, and bicycle storage space (comprising 79 spaces) on ground floor level
  - fourteen (14) serviced apartments on Levels 1 and 2
  - a gymnasium on Level 1
  - an outdoor swimming pool on Level 2
  - a tower form divided into two wings (hereafter known as the northern and southern wings) on Level 3 and above to include 70 residential apartments with the following apartment mix:
    - forty (40) x one bedroom apartments
    - eight (8) x one bedroom + study apartments



- twenty-two (22) x two bedroom apartments
    - communal open space on roof level with pergola structures within the northern portion of the open space area.
- vehicular access from Rowe Lane.

In terms of the commercial and retail components of the proposed development, no specific uses, associated fit-out works and signage are proposed as part of the application.

The amendments as reflected in the amended plans received by Council on 13 April 2017 are summarised in **Table 1** in terms of difference of the numerical aspects between the original and amended forms of the development.

**Table 1: Difference of numerical aspects between the original and amended form of the development**

Aspect	Original	Amended
Number of Apartments	69	70
Apartment Mix		
One bedroom	45	40
One bedroom + study	-	8
Two bedroom	18	22
Three bedroom	6	-
Car parking spaces	98	88
Number of Serviced Apartments	16	14
Number of Retail Tenancies	5	6
Overall building height	RL125.600 52.69m	RL125.200 52.29m
Floor space ratio	6.15:1	5.74:1

The key design amendments are described as follows:

- The northern wing of the tower form of the development from Level 7 and above has been set back from the side boundaries of the site (previously this part of the development was not set back from the side boundaries).
- The height, bulk and overall profile of the lift overrun and overall roof elements have been reduced. A new pergola structure has been introduced to the north of the lift overrun and above the northern portion of the communal open space on the roof level of the development.
- Two of the proposed serviced apartments within the southern wing on Level 2 of the development have been replaced with an outdoor swimming pool in order to provide visual separation between the heritage façade and the tower form of the development.
- The scope of the restoration works of the heritage façade has been increased and revised, including reinstating original decorative features such as the urns on the parapet, restatement of missing windows at first floor level of the façade and selection of colour finishes that respect the design integrity of the heritage façade.
- The material and finish treatment of the northern elevation of the development have been revised, including introducing a face brick finish for the façade between Basement Level and Level 1.
- The serviced apartment entrance, lobby and reception area have been relocated from Ground Level at the site's Oxford Street frontage to Basement Level 1 at its Rowe Lane frontage. The serviced apartment lobby acts as a secondary lobby and pedestrian access point for the residential apartments of the development.

- A further retail tenancy has been introduced to the Oxford Street frontage of the site and the residential apartment lobby entry has been relocated to the far western end of the Oxford Street frontage of the site. The inner, central parts of the residential and serviced apartment lobbies have been redesigned in an open, part double-height and atrium form space.
- The majority of the void area above the retail tenancies on Level 1 has been replaced with commercial space envisaged as a gymnasium.

The proposed development, as amended, does not manifest in additional and greater environmental impacts than the form of the development as originally submitted and exhibited to the public. Therefore, the application was not required to be publicly re-notified following receipt of the amended plans in accordance with section 3.6.1 of Part A3 of Waverley Development Control Plan 2012 (Amendment No. 4).

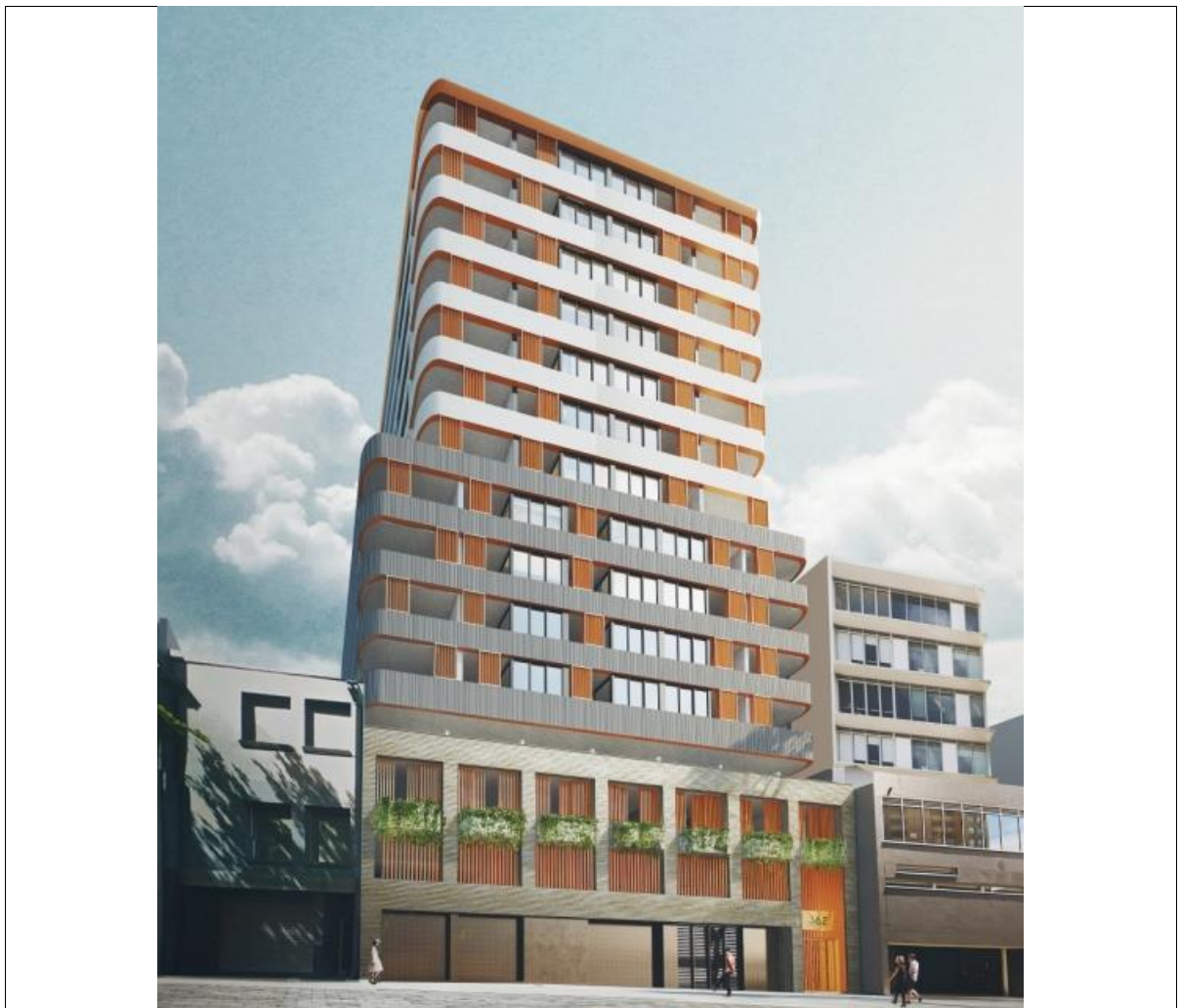
**Figures 11 to 13** are photomontages that visualise the proposed development, as amended, from three different perspectives.



**Figure 11:** Photomontage of the proposed development when viewed from Oxford Street, looking north-east (Source: SJB Architects)



**Figure 12:** Photomontage of the proposed development when viewed from Oxford Street, looking west (Source: SJB Architects)



**Figure 13:** Photomontage of the proposed development when viewed from Rowe Lane, looking south (Source: SJB Architects)

The applicant wishes to enter into a planning agreement for part of the overall gross floor area of the proposed development that exceeds the floor space ratio development standard under Waverley Local Environmental Plan 2012. The applicant and Council's Shaping Waverley sub-program negotiated terms of a draft planning agreement simultaneously during the course of the assessment of the subject application. The agreed-upon development contribution for the Draft Planning Agreement is in the sum of **\$2,026,313**.

The dedications of the contribution in the Agreement for the purpose of providing a material public benefit are yet to be determined; however the current version of the *Waverley Council Planning Agreement Policy 2014* envisages that 10% of the contribution be dedicated to Waverley's Affordable Housing Program with the remaining amount being dedicated to public domain improvements, in this instance the Bondi Junction Complete Streets Program. The dedications will be formalised prior to the Draft Planning Agreement being publicly exhibited and endorsed by the elected Council.

## **2. ASSESSMENT**

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

### **2.1 Section 79C (1)(a) Planning Instruments and Development Control Plans**

The following is an assessment against relevant legislation, environmental planning instruments, including State environmental planning policies (SEPPs), and development control plans.

#### **2.1.1 SEPP (State and Regional Development) 2011**

The development application has a capital investment value (CIV) of **\$24,150,000**. Given the CIV of the development exceeds the CIV threshold of \$20 million as specified in matter 3 of Schedule 4A of the Act, the proposed development is classified as 'regional development' and the functions of Waverley Council as a consent authority are conferred to the Sydney Central Planning Panel for the determination of the application in accordance with clause 21(2)(a) of the SEPP.

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

A BASIX Certificate has been submitted with the development application.

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

#### **2.1.3 SEPP 55 Remediation of Land**

Clause 7 of the SEPP 55 requires Council to consider whether or not a site is contaminated for the purposes of its redevelopment. A preliminary site investigation, prepared by Environmental Investigations Australia was submitted with the application, which provides a desktop study of the site on whether or not it is potentially contaminated through a review of available relevant documents and records. The Preliminary Site Investigation reveals there is low potential for contamination on the site based on the previous and current uses of the site and its separation from known and potential surrounding contaminated sites. The Preliminary Site Investigation recommends a hazardous materials survey on the existing site structures be prepared prior to demolition works and necessary classification measures be conducted on soil and other material being removed from the site. These



recommendations accord with standard conditions of consent that will be recommended, notwithstanding the Preliminary Site Investigation will form part of the documentation associated with the development consent should the application be approved, and would therefore have effect.

#### 2.1.4 SEPP 64 Advertising and Signage

The proposed development does not include any advertising structure and signage. Therefore, SEPP 64 does not apply in the assessment of the application. A condition of consent is recommended to guide future signage associated with the development.

#### 2.1.5 SEPP 65 Design Quality of Residential Flat Development

The proposed development is subject to an assessment against SEPP 65. The application is accompanied by a design verification statement by SJB Architects to confirm that the proposed development has been designed to accord with the nine design quality principles of SEPP 65.

The application, as originally submitted, was referred to the Joint Randwick/Waverley SEPP 65 Design Review Panel (hereafter known as the Panel) on 4 April 2016. The amended form of the development responds to some of the pertinent comment and design recommendations of the Panel that have been agreed upon by Council's Development Assessment officers.

The Panel's comment and recommendations on design improvements to the proposed development, in its original form, are considered in the planning assessment of the development against the nine design quality principles under SEPP 65 as set out in **Table 2** below.

**Table 2: Assessment against the nine Design Quality Principles under SEPP 65**

Principle	Consistency
<b>Principle 1: Context and Neighbourhood</b>	<b>Yes</b>
<p>The context and neighbourhood relating to the site are within the Bondi Junction Centre. The Centre is characterised by a mix of high density residential and commercial development. The proposed development responds successfully to the prevailing built environment character and nature of the Centre by the development comprising a mix of retail, commercial and residential uses. The tower form of the development is contextually appropriate in relation to the existing, emerging and desired future character of the Centre. The Panel acknowledges that the built form quality of the development is consistent with the context and neighbourhood.</p> <p>The Panel expressed a desire for the development to better address and activate Rowe Lane. The amended design of the proposed development includes a pedestrian access point and lobby to Rowe Lane, which will provide some level of activation of Rowe Lane by facilitating a pedestrian link between the development and the Bondi Junction Train and Bus Interchange.</p>	
<b>Principle 2: Built form and Scale</b>	<b>Yes</b>
<p>The overall built form and scale of the proposed development are commensurate with tower form development in the Bondi Junction Centre. The Panel commended the built form and scale qualities of the development, specifically the retention of the street façade of the existing two storey terrace shops along Oxford Street.</p> <p>The Panel expressed some concern about the architectural approach to the articulation of the original form of the development. The amended form of the development has addressed that concern by utilising a consistent and unified rhythm of horizontal banding of solid material across</p>	



Principle	Consistency
<p>all elevations of the tower component of the development. Further, the façade treatment of the podium of the development that addresses Rowe Lane has been rationalised to better improve the outlook, amount and duration of sunlight received and general amenity of the serviced apartments and residential apartments on the lower floor levels of the northern wing of the development.</p> <p>The Panel also highlighted that privacy screens should be required along the sides of the balconies that adjoin and are adjacent to the side boundaries of the site. That detail has not been presented in the set of amended plans. As such, a condition of consent is recommended for privacy treatment to be carried out to courtyards and balconies that have an aspect to adjoining properties and the details of the treatment will be to the satisfaction of the Panel.</p> <p>The upper half levels of the northern wing of the development have been amended to be set back from the side boundaries of the site. This has reduced the perceived building bulk and scale of the development and will enable better visual separation between buildings when the adjoining sites to the east of the subject site are eventually redeveloped. The side setbacks have also improved on the extent and quality of articulation occurring across the side elevations of the development.</p> <p>The built form and scale of the proposed development, as amended, is essentially consistent with the existing and desired future character of the Centre and the immediate streetscape. Further discussion on the how the built form and scale of the development are contextually appropriate is provided in section 3.1.8 of this report with regard to the performance of the development against the height of buildings and floor space ratio development standards under Waverley Local Environmental Plan 2012.</p>	
<b>Principle 3: Density</b>	<b>Yes</b>
<p>The proposed development is consistent with the existing and desired future high density built form character of the Bondi Junction Centre. The development comprises sufficiently-sized units that accord with the minimum apartment size requirements under the Apartment Design Guide (ADG), which will afford a high level of amenity to each apartment. The proposed density of the development in terms of the number of residential apartments provided in the development are expected to be well catered for by existing and proposed physical and social infrastructure, including public transport, and access to employment opportunities within the Bondi Junction Centre.</p>	
<b>Principle 4:Sustainability</b>	<b>Yes</b>
<p>The design of the proposed development has successfully considered the environmental constraints of the site, which has been acknowledged by the Panel. The amended form of the development improves on the overall amount and duration of sunlight received and natural cross-ventilation facilitated by setting back the eastern and western sides of the upper half of the development. The development meets the minimum solar access and natural ventilation design criteria set by the ADG, which demonstrates the commitment of the development to reduce reliance on artificial heating and cooling.</p> <p>An energy assessment report (the Report) has been submitted with the application to demonstrate how the proposed development performs against SEPP BASIX and Section J of the Building Code of Australia, as well as Part B2 of Waverley DPC 2012 in relation to energy and water conservation. The Report includes a BASIX certificate, which demonstrates that the proposed development meets the energy and water efficiency and thermal comfort targets.</p>	

Principle	Consistency
<p>Please refer to sections 3.1.9 and 4.7 of this report on commentary on the adequacy of the Report.</p> <p>The amended form of the development comprises a sufficient amount of soft landscaping, specifically on the roof level, which will improve the thermal comfort of the development and assist in reducing the urban heat island effect of the immediate locality.</p>	
<b>Principle 5: Landscape</b>	<b>Yes</b>
<p>The amended form of the proposed development incorporates a landscape scheme for the planters of terrace areas, including around the swimming pool on Level 2 of the development, and the communal rooftop garden. The scheme is documented on the landscape plans prepared by Black Beetle Landscape Architecture and Design and is considered acceptable in terms of contributing to the environmental and aesthetical aspects of the development. The Panel expressed a desire for trees to be included in the landscape scheme, which have been adopted in the amended landscape plan, specifically on Level 2 and the communal rooftop open space of the development.</p>	
<b>Principle 6: Amenity</b>	<b>Yes</b>
<p>The application, as amended, sufficiently demonstrates that the proposed development meets the relevant solar access, natural ventilation, and apartment size and layout design criteria set out in the ADG that regulate the quality of amenity afforded to the majority of apartments of the development. The Panel commends the open common foyers and corridors to capture natural light and air as well as the communal rooftop open space, which are considered to be a boon to occupant amenity.</p> <p>The overall aesthetics and architectural style of the development are of a high standard and will positively contribute to the urban fabric of the Bondi Junction Centre. This in turn will also improve the outlook for surrounding residents.</p>	
<b>Principle 7: Safety</b>	<b>Yes</b>
<p>The design of the proposed development is conscious of safety and security considerations of the safety design quality principle. Apartments on the lower floor levels of the development that are part of the podium of the development comprise living and private open spaces that directly face either Oxford Street and Rowe Lane. Therefore, these apartments will have a clear line of sight to both streets, and will therefore improve on the passive surveillance of the streets.</p> <p>The public and private spaces of the development are successfully delineated and access to these spaces are considered to be well secured and monitored through separate and dedicated entry points from either Oxford Street and Rowe Lane.</p>	
<b>Principle 8: Housing Diversity and Social Interaction</b>	<b>Yes</b>
<p>The proposed development provides a mix of one and two bedroom apartments. The development responds to the prevailing housing market and social context of the immediate locality and complements the range of existing and future housing stock in the Bondi Junction Centre. The provision of communal rooftop open space encourages social interaction among future residents of the development.</p>	

Principle	Consistency
<b>Principle 9: Aesthetics</b>	<b>Yes</b>
<p>The proposed development is considered acceptable against the aesthetics design quality principle. It will positively contribute to the visual character of the Bondi Junction Centre. The Panel believes the architectural expression of the development is promising. They expressed concern for the treatment of the party walls of the original form of the development. The amended form of the development has improved the appearance of the side elevations by setting back the upper floor levels of the northern wing of the development from the side boundaries and continuing the rhythm of articulation from the northern elevation through to the eastern and western elevations of the development.</p> <p>The Panel has requested that specific details on the materials and finishes be provided as part of preparation of construction certificate material and for that detail to be considered by the Panel. In this regard, a condition of consent is recommended to this effect.</p>	

The proposed development, in its amended form, and the design change conditions of consent as part of the recommendation of the application are considered to adequately address the comment and recommendations of the Panel and the design quality principles of SEPP 65. The development provides for a high quality and architecturally distinct building that responds effectively to the site, site context, surrounding building forms and uses and more broadly the desired future character of the Bondi Junction Centre. The retail, commercial and residential uses have been designed to provide a high level of functionality, privacy and amenity. Therefore, the amended form of the proposed development satisfactorily addresses the nine design quality principles of SEPP 65.

### Apartment Design Guide

Amendment No 3 to SEPP 65 requires the proposed development to consider Parts 3 and 4 of the Apartment Design Guide (ADG). The application is accompanied by a detailed assessment against the Parts 3 and 4 of the ADG which have been considered by the SEPP 65 Design Review Panel. Further, clause 6A of SEPP 65 requires that development control plans (DCPs) cannot be inconsistent with the ADG in respect of the following:

- (a) visual privacy
- (b) solar and daylight access
- (c) common circulation and spaces
- (d) apartment size and layout
- (e) ceiling heights
- (f) private open space and balconies
- (g) natural ventilation
- (h) storage.

If a DCP contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect. Waverley DCP 2012 contains provisions in relation to the above criteria and as such, these provisions of the DCP no longer have effect.

An assessment against the provisions within the ADG is provided in **Table 3**.

**Table 3: Assessment against the Apartment Design Guide**

Design Criteria	Consistency	Planning Assessment
<b>Part 3 Siting the development</b>		
3A Site analysis	Yes	The application and proposed development have thoughtfully considered the site, local and wider context.
3B Orientation	Yes	The proposed development has been orientated and designed to relate the shape of the site, location of neighbouring buildings and public domain.
3C Public domain interface	Yes	The proposed development provides a successful interface with the public domain and will improve the character and quality of the streetscape.
3D Communal and public open space <ul style="list-style-type: none"> <li>Minimum communal open space area of 25% of site area</li> </ul>	Yes	The proposed development includes communal open space on its roof level and the area of the open space equates to 34% of the site area. Half of the open space area is expected to receive at least two hours of solar access between 9am and 3 pm on 21 June (mid winter). See detailed discussion below <b>Table 3</b> of this report on the external impacts of the communal open space on surrounding properties.
3E Deep soil zones <ul style="list-style-type: none"> <li>Minimum deep soil zone of 7% of site area</li> </ul>	No (acceptable on merit)	Application of and consistency with the minimum quantum of deep soil zone design criterion is not practicable as the proposed development has a site coverage of 100%, which is conventional for mixed use development in high density localities such as the Bondi Junction Centre. Notwithstanding, soft landscaping is proposed principally within the communal rooftop open space area and fulfils the objectives of the deep soil zones design criteria and guidance.
3F Visual privacy <ul style="list-style-type: none"> <li>Minimum separation distances for buildings over 25m (+9 storeys) of: <ul style="list-style-type: none"> <li>12m for habitable rooms/balconies</li> <li>6m for non-habitable rooms.</li> </ul> </li> <li>No separation is required between blank walls</li> </ul>	No (see discussion)	The proposed development does not meet the minimum separation distances set out in design criterion 1. See discussion on the inconsistency with the design criterion below <b>Table 3</b> of this report.
3G Pedestrian access and entries	Yes	All pedestrian access entries of the proposed development are connected to and address the public domain, are easily identifiable and provide a strong connection with the streetscape.

Design Criteria	Consistency	Planning Assessment
3H Vehicle access	Yes	The vehicular access point of the development is on the Rowe Lane frontage, which is the accepted location for vehicular access for the site. It has been designed and located to maximise safety, minimise pedestrian conflicts, and provide an adequate presentation to Rowe Lane.
3J Bicycle and car parking	Yes	<p>The proposed development falls within the design criteria of Objective 3J-1 as it is located within 800m of a railway station in the Sydney Metropolitan Area. The resident and visitor car parking requirements set out in the <i>Guide to Traffic Generating Development 2002</i> are applicable to the residential component of the development. The Bondi Junction Centre is classified as a 'metropolitan regional (Central Business District) centre' as it provides high level of local employment as well as access to rail and bus services. The following minimum off-street residential parking spaces apply to development within metropolitan regional centres:</p> <ul style="list-style-type: none"> <li>• 0.4 resident spaces per one bedroom unit</li> <li>• 0.7 resident spaces per two bedroom unit</li> <li>• 1 visitor space per seven units.</li> </ul> <p>The residential component of the development generates a minimum of 35 residential spaces and 10 visitor spaces. The proposed development provides for 63 residential spaces and 11 visitor spaces. The development therefore meets the minimum quantum of off-street car parking required for the development. See discussion in <b>Table 8</b> of this report on the appropriateness of the total quantum of car parking spaces in the development against the car parking rates set out in Waverley Development Control Plan 2012, which provide a greater amount of car parking than the rates specified by the <i>Guide to Traffic Generating Development 2002</i>. The development will promote the use of other modes of transport by providing parking and storage facilities for motorcycles (up to 15 spaces in the basement) and bicycles (up to 79 spaces within a dedicated space on the ground floor level of the development).</p>
<b>Part 4 Designing the building</b>		
<b>Amenity</b>		
4A Solar and daylight access <ul style="list-style-type: none"> <li>• Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours</li> </ul>	Yes	The application provides solar access diagrams to demonstrate how the proposed development meets the design criteria under Part 4A. The diagrams reveal that living rooms and private open space areas of 49 out of 70 apartments, which equates to 70% of all apartments



Design Criteria	Consistency	Planning Assessment
<p>direct sunlight between 9am-3pm mid-winter</p> <ul style="list-style-type: none"> <li>A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter</li> </ul>		<p>in the development, receive at least two hours of direct sunlight between 9am and 3pm at mid-winter. The solar access diagrams reveal that seven out of 70 apartments, which equates to 10% of all apartments in the development, will have no direct sunlight between 9am and 3pm at mid-winter.</p>
<p>4B Natural ventilation</p> <ul style="list-style-type: none"> <li>Minimum of 60% of apartments are naturally cross-ventilated in the first nine storeys of the buildings</li> <li>Apartments at ten storeys or greater are deemed to be cross-ventilated only</li> </ul>	Yes	<p>All habitable rooms to apartments are naturally cross-ventilated with an aspect to either Oxford Street or Rowe Lane. The depth of habitable rooms will support natural ventilation and windows and glazed door openings have been appropriately designed to suit the intended use of the rooms. Twenty-four (24) apartments between Levels 3 and 8 are naturally cross-ventilated between Levels 3 and 8 of the development, which equates to the first nine habitable storeys of the development. There are 40 apartments between Levels 3 and 8 of the development, and therefore 60% of these units are cross-ventilated. All of remaining apartments on Level 9 and above of the development do not comprise balconies that can be fully enclosed, and therefore all of these units are deemed naturally cross-ventilated.</p>
<p>4C Ceiling heights</p> <ul style="list-style-type: none"> <li>Ground and first floor levels in mixed use - 3.3m</li> <li>Restaurant/café uses on ground floor – 4m</li> <li>Habitable rooms – 2.7m</li> <li>Non-habitable rooms – 2.4m</li> </ul>	Yes	<p>The proposed development incorporates the following ceiling heights (measured from finished floor level to finished ceiling level of the same floor level):</p> <ul style="list-style-type: none"> <li>Ground floor retail: 3.6m</li> <li>First floor commercial: 3.1m</li> <li>Residential and serviced apartments: 2.8m</li> </ul> <p>The specific uses of the ground floor retail tenancies are not known at this stage. Notwithstanding, a ceiling height of 3.6m is deemed ample if the retail tenancies are used for restaurant and café purposes.</p>
<p>4D Apartment size and layout</p> <ul style="list-style-type: none"> <li>Minimum internal area of: <ul style="list-style-type: none"> <li>50m<sup>2</sup> for one bedroom apartments</li> <li>70m<sup>2</sup> for two bedroom apartments</li> </ul> </li> </ul>	Yes	<p>All apartments comply with the minimum internal area specified in design criterion 1. All apartments incorporate high quality internal design that will improve the residential amenity for both future occupants without unreasonably impacting on the amenity of surrounding residential buildings and private open spaces.</p>
<p>4E Private open space and balconies</p> <ul style="list-style-type: none"> <li>All apartments provide primary balcony as follows:</li> </ul>	Yes	<p>All apartments are provided with private open space in the form of a balcony or terrace. Each private open space area is accessed from a living area of individual apartments and generally includes appropriate privacy treatment (except for those that are orientated to the side boundaries of the site which has been identified</p>

Design Criteria	Consistency	Planning Assessment
<ul style="list-style-type: none"> <li>One-bed – 8m<sup>2</sup> and 2m depth</li> <li>Two bed – 10m<sup>2</sup> and 2m depth</li> </ul>		and addressed by recommended condition of consent). The area of the private open space of apartments range from 8m <sup>2</sup> and 53m <sup>2</sup> . All private open space areas have a depth greater than 2m.
4F Common circulation and spaces	Yes	The circulation core/foyers on Levels 3 to 6 of the development provide access to a maximum of seven apartments. The circulation core/foyers on Levels 7 to 13 provide access to a maximum of six apartments. The proposed development comprises two lifts serving its residential component. The lifts are considered to properly service the residential component of the development given that it caters for 70 apartments. The design of the common circulation spaces as a breezeway provides for a high quality residential environment.
<b>4G Storage</b> <ul style="list-style-type: none"> <li>Minimum volume of storage for: <ul style="list-style-type: none"> <li>One bed – 6m<sup>3</sup></li> <li>Two bed – 8m<sup>3</sup></li> </ul> </li> </ul>	Yes (by condition)	The proposed development indicates storage cupboards will be provided to each of the apartments. While the area of the storage spaces is not quantified on the plans and is below the numeric control, a condition of consent is recommended requiring the construction certificate plans to allocate and quantify the minimum volume of storage required by the ADG.
4H Acoustic privacy	Yes	The application is accompanied by a thorough site analysis that has considered the constraints of the site, conditions and relationship to surrounding buildings and local context. This analysis has considered individual apartments exposure to acoustic privacy impacts and each habitable room has been designed to protect the acoustic privacy of future occupants and acoustic privacy of surrounding buildings. The proposed development has adequately considered and addressed the design guidance requirements in Part 4H of the ADG.
4J Noise and pollution	Yes	The proposed development has appropriately designed individual apartments to minimise impacts from noise and pollution. It is not susceptible to adverse noise from busy roads.
<b>Configuration</b>		
4K Apartment mix	Yes	The proposed development includes one and two bedroom apartments that that will support a wide variety of household types and sizes. The apartment mix is considered appropriate taking into consideration the close proximity of the site to public transport options

Design Criteria	Consistency	Planning Assessment
		and the development being within a high density urban environment.
4M Facades	Yes	The proposed development incorporates high quality architectural design with each façade contributing to the visual interest of the development and character of the local area. A condition of consent has been recommended at the request of the Panel to ensure that all building façade materials and finishes are appropriately described, detailed and reflected on the plans prior to the issue of a construction certificate.
4N Roof design	Yes	The majority of the roof level of the proposed development is devoted to communal open space and landscaped area. The roof level of the development provides a cohesive relationship with the overall building design of the development and will contribute positively to the visual character of the Bondi Junction Centre.
4O Landscape design	Yes	The landscape scheme of the proposed development is diverse and a number of trees and shrubs are proposed. The proposed landscaping will positively contribute to the visual character of the development and provide desirable amenity for the different land uses within the development.
4P Planting on structures	Yes	The landscape plans and architectural plans detail the soil depths for the planters on the roof level of the development, which range between 500mm and 1m and are considered to be sufficient to sustain the growth of selected plants. The landscape plans address the objectives and design criteria in 4P of the ADG.
<b>Performance</b>		
4U Energy	Yes	All apartments within the proposed development incorporate passive environmental design, including design elements that seek to retain heat in winter and reduce heat transfer in summer. Considerable natural ventilation is incorporated into almost all apartments reducing the need for artificial cooling and heating.
4V Water management and conservation	Yes	The proposed development includes onsite landscaping, which improves water management and conservation. All standard conditions of consent regarding onsite stormwater management and retention are recommended.

Design Criteria	Consistency	Planning Assessment
4W Waste management	Yes	The proposed development includes dedicated residential and commercial waste storage rooms that are located within the basement of the building and adjacent and readily accessible to the loading bay accessed from Rowe Lane. These facilities will enable the effective management and collection of waste from the site. Further, a detailed waste management plan has been submitted and is considered appropriate for the development.
4X Building maintenance	Yes	The proposed development includes a number appropriate building materials and design elements to minimise long term maintenance and improve building resilience. The proposed building maintenance requirements are considered limited and supported.

The following is a detailed discussion of the main issues identified in **Table 3** above in relation to relevant design criteria of the Apartment Design Guide (ADG).

### Visual privacy

Part 3F of the ADG seeks to ensure that the visual privacy of the residential apartments of the proposed development and adjacent residential properties are not compromised by the building design. An appropriate response to visual privacy for the development is based on site context, configuration and topography, form and scale of the development and apartment layout. The objectives of the visual privacy design criteria and guidance under Part 3F of the ADG are as follows:

- *Objective 3F-1: Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy*
- *Objective 3F-2: Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.*

The minimum separation distances set out in design criterion 1 are applied to the eastern and western side boundaries of the site as well as the northern boundary of the site, which is treated as the rear boundary of the site given that it abuts a laneway rather than a conventional street. The separation distances set out in design criterion 1 are extracted from the ADG and shown in **Figure 14** below.

Building height	Habitable rooms and balconies	Non-habitable rooms
up to 12m (4 storeys)	6m	3m
up to 25m (5-8 storeys)	9m	4.5m
over 25m (9+ storeys)	12m	6m

**Figure 14:** Minimum building separation distances set out in design criterion 1 of Part 3F of the ADG (Source: NSW Department of Planning and Environment)

The building separation distances of the residential floor levels of the proposed development are outlined in **Table 4** below.

**Table 4: Building separation distances of the proposed development from the subject site boundaries**

Levels of development	Eastern boundary	Western boundary	Rear boundary (Rowe Lane)
<b>Level 3 to Level 6</b>			
Northern wing	Nil	Nil	1.49m-2.07m
Southern wing	3.02m	3.78m	-
<b>Level 7</b>			
Northern wing	Nil	Nil	1.49m – 2.07m
Southern wing	3.02m	3.78m	-
<b>Level 8 to Level 13</b>			
Northern wing	3.04m	3.36m	1.49-2.07m
Southern wing	3.02m	3.78m	-
Roof level (communal open space)	3.9m-4.4m	4.5m-4.7m	3.57m

The two wings of the proposed development between Levels 3 and 13 are separated by a distance of 3m. That distance is acceptable as the external walls of the wings of the development that directly face one another do not have window openings of apartments that directly look into internal and external areas of other apartments. Further, the circulation cores and lobbies of the development will not compromise the visual privacy of apartments that may be in sight of the lobbies given that the vertical louvres across the external edges of the lobbies are orientated at an angle of 90 degrees (measured from a horizontal plane) that would direct sightlines away from and protect the visual privacy of window openings and private open space areas of apartments adjacent to the lobbies.

**Table 4** demonstrates that the proposed development does not meet the minimum separation distances between the development and adjacent buildings. One of the design guides under section 3F of the ADG states that separation between blank walls of buildings is not required. This is the case for the nil setbacks along the western boundary of the site between Basement Level 1 and Level 6 of the development that align with the blank party walls of the adjoining commercial buildings to west of the site at 356-360 Oxford Street. Therefore, the visual privacy of apartments that adjoin the western boundary of the site between Level 2 and Level 6 of the development will not be affected by the adjoining development at 356-360 Oxford Street despite there being no building separation.

Level 7 of the northern wing of the proposed development has nil separation from the eastern and western side boundaries of the site as the terraces or courtyards to the apartments on either ends of the northern wing of the development extend up to the eastern and western boundaries of the site. The adjoining properties to the east of the site that are known as 376-382 Oxford Street are comprised of commercial uses and are currently underdeveloped. The proposed development anticipates that any future redevelopment of the adjoining properties would adopt a podium of the same or similar scale and height to that of the northern wing of the proposed development whereby the podium has nil side setbacks with no window openings. However, eastern most balconies between Levels 3 and 6 of the northern wing of the development do not comprise complete screens across its eastern edge that abuts the eastern boundary of the site. The longevity of visual privacy afforded to these balconies and courtyards on Level 7 of the development cannot be assured when the adjoining properties to the east and west are redeveloped in the future. Further, there is an expectation that a reciprocal level of visual privacy is afforded to future residential apartments as part of the redevelopment of the adjoining



properties. Therefore, a condition of consent is recommended for privacy treatment to be carried out to the courtyards on Level 7 and balconies of the northern wing of the development that directly adjoin, face and are oriented over the side boundaries of the site.

The distances of separation between Level 8 and Level 13 of the development from the eastern boundary of the site are deemed reasonable on merit as they are consistent with the objectives of the visual privacy design criteria and guidance. The tower component of the proposed development provides for a minimum distance of 3m of separation from the eastern boundary of the site. That distance would be expected to be equally reciprocated for any future redevelopment of the adjoining properties at 376-382 Oxford Street, which would lead to an approximate distance of 6m of separation between buildings. That distance is considered acceptable to facilitate orderly redevelopment of the adjoining properties within an infill and high density urban context. The privacy treatment and overall configuration of apartment layouts for any future redevelopment of the adjoining site are not expected to be overly complicated as window openings across the eastern elevation of the development are not considered expansive. Further, apartments of the any future redevelopment would be primarily orientated to Oxford Street with minimal openings across the western sides of the apartments. As such, the proposed development is unlikely to unreasonably compromise access to light, air, outlook and views from habitable rooms and private open space of residential apartments of any future development at the adjoining properties while achieving a reasonable level of visual privacy.

The proposed development is separated by an approximate minimum distance of 18m from the southern external wall of the adjacent residential tower to the north of the site at 81 Grafton Street. Sightlines between the two buildings would likely dissipate over that distance, which is considered sufficient on that basis. Therefore, the proposed development is not expected to adversely affect the visual privacy of apartments that have a southern aspect of the adjacent residential tower at 81 Grafton Street.

Despite the proposed development not meeting the minimum distances of separation between buildings outlined in the ADG, the design of the development has appropriately considered how to achieve a reasonable and reciprocal level of visual privacy between the subject development and any future redevelopment of the adjoining properties, particularly those to the east of the site.

### **Communal Open Space**

The proposed development comprises communal open space on its roof level. It is accessed by the two lifts, providing adequate level of accessibility for people living with a disability. Given how far it is vertically and horizontally separated from surrounding residential properties, the communal open space is not expected to manifest in adverse visual and acoustic privacy impacts. However, having regard to potential redevelopment of properties immediately adjoining the site (which is anticipated to predominantly comprise residential uses), the use of the terrace should be restricted within acceptable hours of the day to afford and protect adequate residential amenity of future adjoining residential development. A condition of consent is recommended to restrict the hours of operation of the communal open space.

#### **2.1.6 SEPP (Infrastructure) 2007**

The site is identified within the 'railway corridor' and therefore SEPP (Infrastructure) 2007 applies to the assessment of the application. The application was been referred to Transport NSW (Sydney Trains) for concurrence in accordance with clauses 85 and 86 of the SEPP. Sydney Train confirmed its concurrence on 23 May 2016 and reiterated their concurrence on 31 July 2017 based on the

amendments made to the original form of the development. Sydney Trains recommended a suite of conditions of consent, which have been adopted in the recommendation for this application.

The site fronts part of Oxford Street that is not deemed a classified road and therefore the application is not subject to an assessment against clause 101 of SEPP (Infrastructure) 2007. Further, the proposed development is not considered 'traffic-generating development' in accordance with Schedule 3 of SEPP (Infrastructure) 2007 as it contains less than 300 residential dwellings.

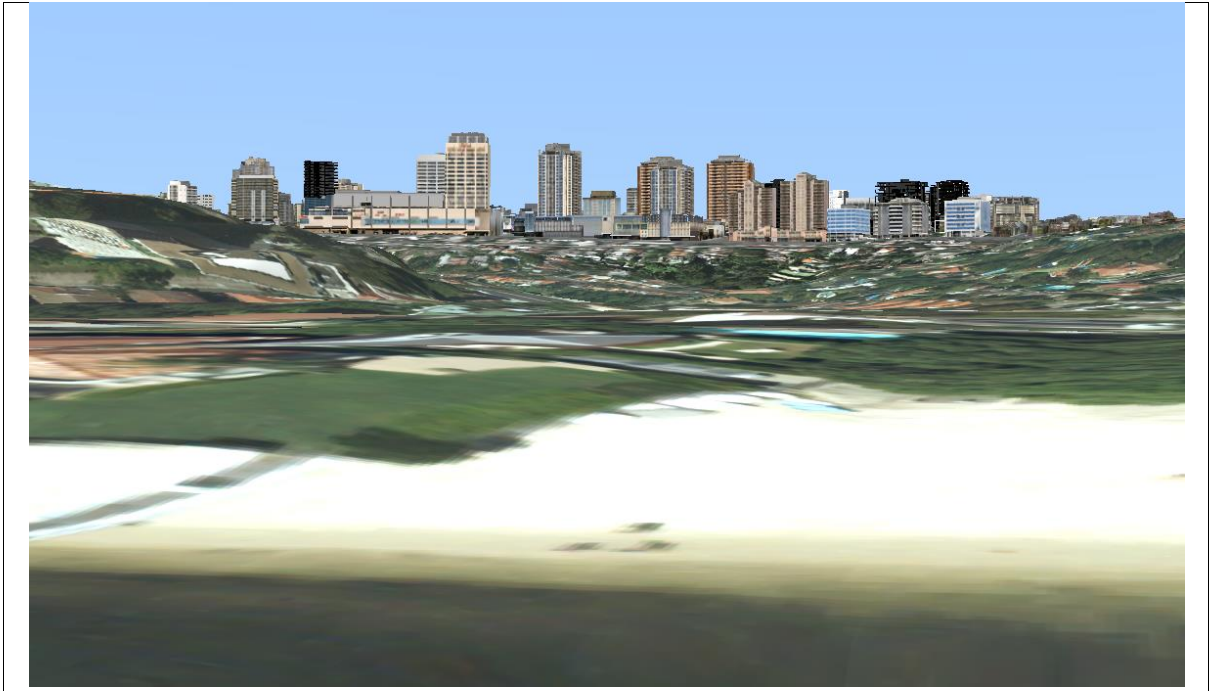
#### **2.1.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The Bondi Junction Centre is captured by the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the SREP) as it is part of land identified within the edged heavy black borders on the Sydney Harbour Catchment Map referred to in clause 3(1) of the SREP. The SREP is a deemed SEPP, and therefore, the matters for consideration under Division 2 of Part 3 of the SREP apply to the assessment of the application.

Given the site is separated by a substantial distance from the immediate foreshores and waterways of Sydney Harbour, the proposed development has no effect on the following matters set out in clauses 21 to 24 and 26 and 27 of the SREP:

- biodiversity, ecology and environment protection
- public access to, and use of, foreshores and waterways
- maintenance of a working harbour
- interrelationship of waterway and foreshore uses
- maintenance, protection and enhancement of views
- boat storage facilities.

The proposed development will be partially visible from the immediate foreshores and waterways of Sydney Harbour and therefore clause 25 of the SREP are to be taken into consideration in the assessment of the application. **Figure 15** below is a snapshot from Council's three dimensional electronic modelling system, known as the Waverley Digital Model, that visualises the proposed development when viewed from a typical position on the foreshore of Sydney Harbour, which in this case is at Double Bay where the proposed development is expected to be most visible from this point than from anywhere else within Sydney Harbour.



**Figure 15:** Snapshot from the Waverley Digital Model, taken at the shoreline of Double Bay as part of Sydney Harbour, looking directly south

As shown in **Figure 15**, the majority of the proposed development is obscured by the two residential towers directly to the north and opposite the site at the site known as 79-81 Grafton Street. In this regard, the proposed development is expected to have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries. The proposed development is considered acceptable with regards to the relevant matters for consideration under the SREP.

### 2.1.8 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

**Table 5: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposed development meets the relevant aims of Waverley LEP 2012.
<b>Part 2 Permitted or prohibited development</b>		
2.6 Subdivision – consent requirements	N/A	The application does not seek consent for Strata subdivision of the proposed development. Separate development consent is required for Strata subdivision of the development.
Land Use Table B4 Mixed Use Zone	Yes	<p>The broad land use definition of the proposed development is ‘shop top housing’ as the development comprises one or more dwellings above ground floor ‘retail premises’ and ‘business premises’. ‘Shop top housing’, ‘retail premises’ and ‘business premises’ are permitted uses with development consent in the B4 zone.</p> <p>The development also comprises a ‘commercial premises’ on Level 1 of the development with its specific use being identified as a gymnasium. That use is permitted with development consent in the B4 zone.</p> <p>Level 1 and Level 2 of the development comprise ‘serviced apartments’, which is a use that is not included in the prohibition part of the land use table for the B4 zone and is therefore permitted. The land use definition of ‘serviced apartments’ is:</p> <p><i>“a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner’s or manager’s agents.”</i></p> <p>In this regard, the serviced apartments component of the development is a regular</p>

Provision	Compliance	Comment
		<p>commercial activity that corresponds to the 'business premises' definition, and as such, is consistent with the broader 'shop top housing' land use definition of the proposed development.</p> <p>The proposed development is consistent with the relevant objectives of the B4 zone in that it:</p> <ul style="list-style-type: none"> <li>• is a mixed use development, comprising compatible commercial, retail and residential uses that are permitted in the B4 zone</li> <li>• capitalises on its location within the Bondi Junction Centre by promoting modes of travel other than by vehicle through its secondary entry point on Rowe Lane and ample provision of bicycle parking.</li> </ul>
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings <ul style="list-style-type: none"> <li>• 38m</li> </ul>	No	The proposed development achieves an overall building height of <b>52.29m</b> , which is measured to the top level of the lift overrun and roof plant of RL125.200 directly above ground level (existing) of RL72.970 (which corresponds to level of the existing hardstand area in the direct centre of the site). The development exceeds the height of buildings development standard by 14.29m or 38%.
4.4 Floor space ratio <ul style="list-style-type: none"> <li>• 5:1</li> </ul>	No	The proposed development comprises a total of 5,168m <sup>2</sup> of gross floor area, which achieves a floor space ratio of <b>5.744:1</b> . The proposed development exceeds the floor space ratio by 669m <sup>2</sup> of gross floor area or 14.9%.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height of buildings and floor space ratio development standards. A detailed discussion of the variation to the development standards is presented below this table.
<b>Part 5 Miscellaneous provisions</b>		
5.6 Architectural roof features	N/A	The applicant does not submit that the proposed development comprises



Provision	Compliance	Comment
		architectural roof features to justify exceeding the height of buildings development standard of Waverley LEP 2012. Therefore, the exceedance will be solely considered under the provisions of clause 4.6 of Waverley LEP 2012.
5.9 Preservation of trees or vegetation	Yes	The site does not contain any tree or vegetation that is subject to Council's Tree Preservation Order (TPO). There are no street trees directly in front of the subject site that would be affected by the construction and on-going use of the proposed development.
5.10 Heritage conservation	Yes (see discussion)	The site contains a local heritage item, which is a row of buildings known as the 'Imperial Building' that extend between the properties known as 356 -374 Oxford Street, Bondi Junction. The item is identified as 'I216' under Schedule 5 of Waverley LEP 2012. A discussion of the impact of the proposed development on the significance of the heritage item is set out below this table.
<b>Part 6 Additional local provisions</b>		
6.2 Earthworks	Yes	<p>The proposed development involves earthworks, specifically excavation and provision of fill. The application is accompanied by a geotechnical investigation report, which examines the subsurface conditions of the site and provides for recommendations on the demolition, excavation and construction aspects of the development to minimise disruption on the soil stability of the site and its immediate surrounds.</p> <p>The scope of examination included in the Geotechnical Investigation Report satisfies the matters for consideration under clause 6.2(3) of Waverley LEP 2012. The report will form part of the approved documentation as a condition of consent should the application be approved. Further, conditions of consent are recommended to require dilapidation reports and details of shoring and piling to be provided with any construction certificate application. A separate condition of consent is recommended to control the use and quality of fill.</p>

Provision	Compliance	Comment
6.5 Active street frontages in the Bondi Junction Centre	Yes	The Oxford Street boundary of the site is identified as an 'active street frontage' on the Active Street Frontages Map of Waverley LEP 2012. The ground floor level of the development comprises six retail premises that address Oxford Street. The ground floor street façades of the development are designed as conventional shopfronts with appropriate glazed bay windows and solid proportions to achieve perceptive active street frontages.
6.7 Solar access to public spaces in Bondi Junction	N/A	The site is not in close proximity to all of the public open space areas listed under clause 6.7 (2) of Waverley LEP 2012 that would experience additional shadow impact by the proposed development.

The following is a detailed discussion of the issues identified in the compliance table above in relation to the Waverley LEP 2012.

### Exceptions to Development Standards

Council is able to grant consent to a development that contravenes any development standard in Waverley LEP 2012 having regard to the provisions of clause 4.6 of Waverley LEP 2012 and considering a written request by an applicant to vary such development standard. The heads of consideration under clause 4.6 of Waverley LEP 2012 for a development varying a development standard are as follows:

- *Clause 4.6(3) (a) - that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case*
- *Clause 4.6(3)(b) - that there are sufficient environmental planning grounds to justify contravening the development standard*
- *Clause 4.6(4)(a)(iii) - the proposed development will be in the public interest because it is consistent with objectives of the particular development standard and the objectives for development within the zone in which the development is proposed to be carried out.*
- *Clause 4.6(5)(a) - whether contravention of the development standard raises any matter of significance for State or regional environmental planning*
- *Clause 4.6(5)(b) - the public benefit of maintaining the development standard*
- *Clause 4.6(5)(c) – other relevant matters.*

### *Clause 4.3 Height of buildings*

The proposed development has an overall building height of 52.29m, which exceeds the height of buildings development standard of 38m prescribed under clause 4.3 of Waverley LEP 2012 by 14.29m or 38%.

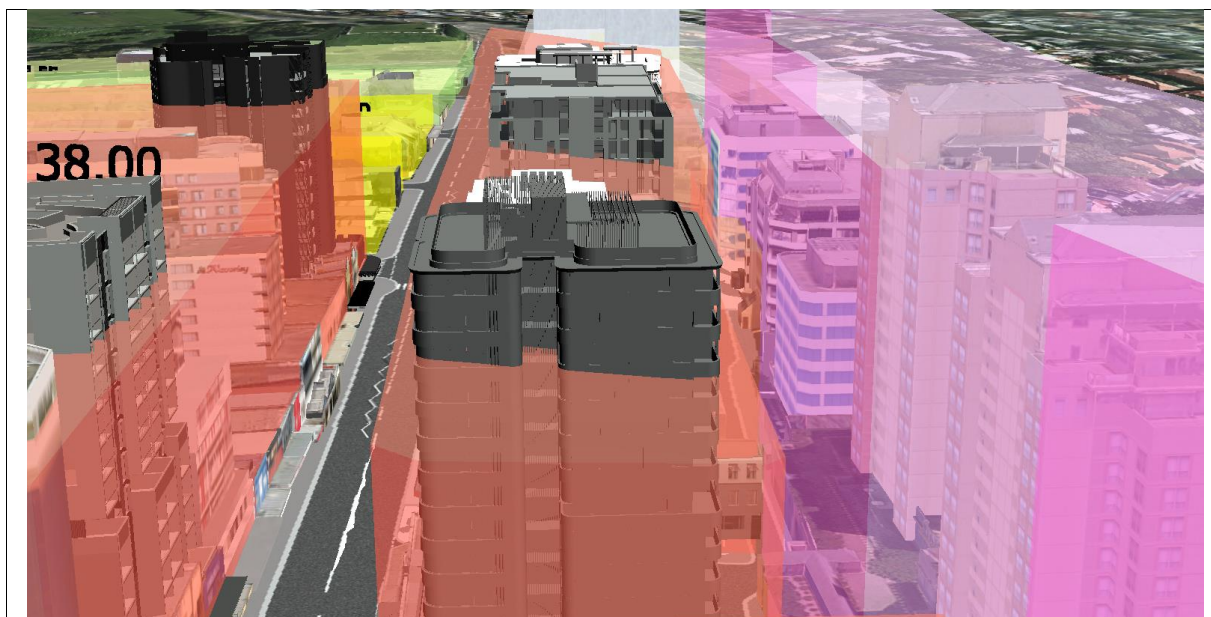
The building height measurements of the key elements of the development are set out in **Table 5** below.

**Table 6: Building height measurements of the proposed development**

Element of development	Proposed/finished level	Ground level (existing) directly below	Building height
Top of lift overrun and roof plant	RL125.200	RL72.970	<b>52.29m</b>
Top of pergola structure	RL123.410	RL72.490	<b>50.92m</b>
Top of the balustrades around communal open space on roof level	RL121.810	RL71.720	<b>50.09m</b>
Top of roof parapet (Rowe Lane elevation)	RL120.460	RL71.510	<b>48.95m</b>
Top of roof parapet (Oxford Street elevation)	RL120.460	RL75.220	<b>45.24m</b>

**Table 6** demonstrates that all of the uppermost elements of the development exceed the height of buildings development standard. Further, the two uppermost floor levels of the southern wing that addresses Oxford Street extend above the height of buildings development standard and the three uppermost floor levels of the northern wing that addresses Rowe Lane extend above the development standard.

**Figure 16** is a snapshot from the Waverley Digital Model to visualise the extent of the proposed development that exceeds the height of buildings development standard of 38m (NB. The plane of the applicable development standard is shown in red in the snapshot). The snapshot also shows the immediate context of the site in terms of the height of building development standards applying to adjacent sites (NB. The plane shown in pink represents a height of buildings development standard of 60m). The fullest extent of the variation of the height of buildings development standard occurs within the northern portion of the proposed development which corresponds to the lowest point of ground level (existing) of the site.



**Figure 16:** Snapshot from the Waverley Digital Model, looking west above Newland Street road reserve and showing three dimension planes of height of buildings development standards applying to the site and its surrounds overlaid by models of existing, recently constructed and approved development (subject development in the centre of snapshot)

A written request pursuant to clause 4.6 of Waverley LEP 2012 has been made, seeking to vary the development standard. The justification presented in the written request is summarised as follows:

- Strict compliance with the development standard is unreasonable and unnecessary for the following reasons:
  - The areas of non-compliance with the development standard do not manifest in privacy impacts given how well the building and apartments and their private open space areas are configured and oriented.
  - The difference of visual impacts between the proposed development (described as slender in nature) and a development that complies with the development standard are nominal given that the development is within an emerging urban context comprised of tall buildings and high density development. The existing buildings to the north of the site are greater in height and density than the proposed development. Further, the street facades of the development are well articulated, comprise different materials, finishes and textures, and will result in a visually interesting building.
  - The difference of overshadowing impacts between the proposed development and a development that complies with the development standard would be relatively minor given the proposed development is a slender and tall building resulting in thinner, fast moving shadows compared to a wider and more 'squat' style development. The shadowing impacts of the development would be predominantly experienced on rooftops of buildings to the south and be fast moving across these buildings. The extent of the shadowing impact is considered acceptable within the high density context of the Bondi Junction Centre.
  - The areas of non-compliance with the development standard are arranged such that they will unlikely result in view loss from adjacent residential properties. Further, views in the locality are predominantly in a northern direction towards Sydney Harbour and Double Bay. The amended form of the proposed development

incorporates increased side setbacks of its tower component, which are expected to improve sharing of currently available views over the subject site from adjacent buildings to the south, south-east and south-west of the site than that of the original form of the development.

- The proposed development satisfies the objectives of the B4 zone and the development standard.
  - Strict compliance would result in a weaker urban design outcome by reducing the height of the development that is lower than that of adjacent development. Strict compliance would therefore result in the development being inconsistent with the bulk and scale of the surrounding buildings to the north of the site as well as recently approved surrounding buildings.
- Sufficient environmental planning ground exists to justify the contravention of the development standard for the following reasons:
  - The building height of the proposed development results in a better urban design outcome for the site given that its visual catchment contains buildings that are taller than the proposed development. The development is visually compatible with the emerging character of the locality.
  - The non-compliance with the development standard is a result of the development meeting the minimum solar access requirements set by the ADG as solar access to the site is constrained by the adjacent residential towers to the north of the site at 79 and 81 Grafton Street.
  - The proposed development provides for additional residential accommodation in an area with excellent access to public transport services.
  - The proposed development will not set a precedent in terms of density and height for future development in the locality.
  - The proposed development satisfies the objectives of the B4 zone and the development standard.
  - The non-compliance with the development standard does not manifest in adverse environmental impacts in terms of overshadowing, visual impacts or view loss.
  - The proposed development will result in a material public benefit through an offer to enter into a planning agreement to offset the non-compliance with the height of buildings and floor space ratio development standards. The material public benefit will contribute to funding of Council initiatives to improve public infrastructure and affordable housing.
- The proposed development is in the public interest as it is consistent with the objectives of the development standard and the zone. The reasons for this claim reflect those previously outlined.
- The contravention of the development standard does not raise issue of State or regional planning significance as it relates to local and contextual conditions as it relates to the “broad brush nature” of a development standard that applies across a particular local area.
- The proposed development is considered to be orderly and economic development of land that is consistent with sections 5(a)(i) and (ii) of the Act.
- There is no particular public benefit of maintaining the development standard for this case as strict compliance would result in a poor urban design outcome for the proposed development and its relationship with recently approved development in the Bondi Junction Centre. A planning agreement has been offered as an offset of the non-compliance with the development standard, which will result in a material public benefit.

The arguments presented in the applicant’s written request are generally well-founded to justify the proposed development contravening the height of buildings development standard. The applicant has organised their written request based on the then NSW Department of Planning and

Infrastructure's *Varying Development Standards: A guide*, which is founded on the principles arising from cases heard by the NSW Land and Environment Court. The written request addresses the following main environmental planning themes central to the argument that the proposed building height is appropriate and has merit to contravene the development standard:

- visual impact
- shadowing impact
- view impact
- other amenity impacts.

These themes are considered and discussed in detail below. The variation is also considered on how it affects the performance of the proposed development against the relevant objectives of the height of buildings development standard. The objectives of the development standard outlined under clause 4.3(1) of Waverley LEP 2012 are extracted as follows:

- (a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties,*
- (b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,*
- (c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,*
- (d) to ensure that buildings are compatible with the height, bulk and scale of the existing character of the locality and positively complement and contribute to the physical definition of the street network and public space.*

### **Visual impact**

The subject site is within the western precinct of the Bondi Junction Centre that is currently undergoing extensive change to the built form and visual character of the area given recently built, currently constructed, and/or approved tower form developments emerging in the area. The proposed development is effectively a 14 storey building with a basement level that is partially above ground at the Rowe Lane frontage of the site given the north-south fall of the terrain of the site. The development will be primarily viewed from Oxford Street and it presents as 14 storeys from Oxford Street. **Figure 16** shows recently built and approved tower form developments in the immediate vicinity of the site are 14 storeys and demonstrate that these developments exceed the same height of buildings development standard of 38m that applies to the subject site. These developments are outlined in **Table 7** below.



**Table 7: Examples of developments that breach the height of buildings development standard of 38m**

Address	Approval Reference	Overall Building Height *measured to the top of lift overrun
344-354 Oxford Street (on northern side of Oxford Street)	DA-101/2014/B	40.5m
304-308 Oxford Street (on northern side of Oxford Street)	DA-503/2014/A	48.65m
310-330 Oxford Street (on northern side of Oxford Street)	DA-598/2008/E	44.5m
109-119 Oxford Street (on southern side of Oxford Street)	DA-569/2015 DA-569/2015/A*	42.3m 49.45m
59-69 Oxford Street (on southern side of Oxford Street)	DA-585/2015/A	47.8m

\*yet to be determined and is before the Sydney Central Planning Panel for determination.

**Figure 16** demonstrates that the exceedance of the height of buildings development standard encountered by the majority of the examples outlined in **Table 7** equates to or manifests in these developments being two storeys or additional floor levels above the development standard. In this regard, the overall number of buildings storeys of these examples is 14.

Further to these examples, the adjacent two residential towers to the north of the site at 79-81 Grafton Street, while subject to a height of buildings development standard of 60m, is much greater in building height than the proposed development. These adjacent towers are very much within the visual catchment of the site and are as such are considered as part of assessing the appropriateness of the overall building height of the proposed development.

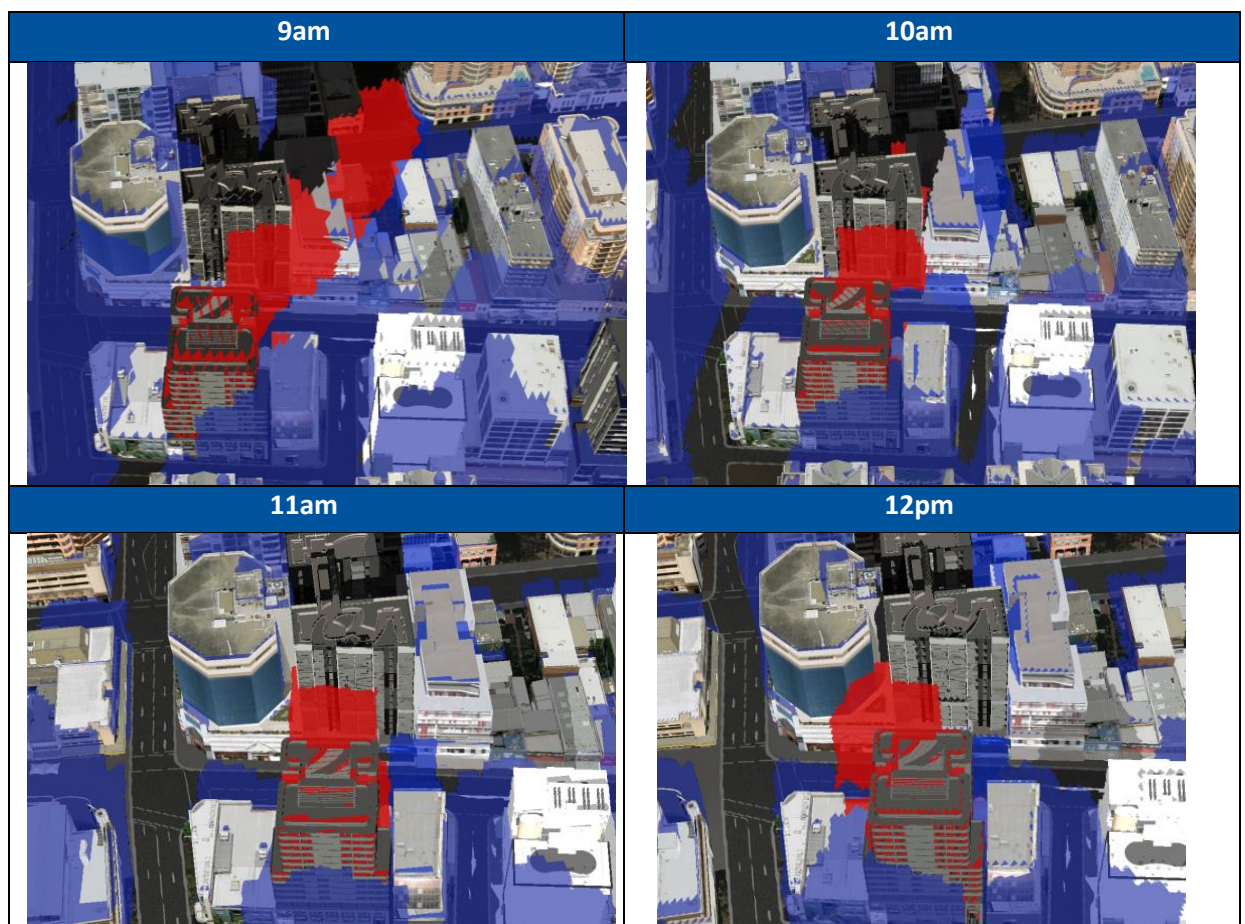
The data outlined above reveal that the building height of the proposed development is contextually appropriate. While the numerical extent of the variation is significant, the number of building storeys of the proposed development is the main determinant on how the building height of the development is read or perceived from ground level within the surrounding street network and public spaces. The proposed development is perceived as a 14 storey building and is thus consistent with recently constructed and approved tower form developments that are also perceived as 14 storeys and are subject to the same height of buildings development standard of 38m. Further, the overall architecture, aesthetics and design of the proposed development are striking and of a high standard, and therefore assist to offset the extent of visual impacts upon surrounding properties, the surrounding street network and the broader public domain of the Bondi Junction Centre.

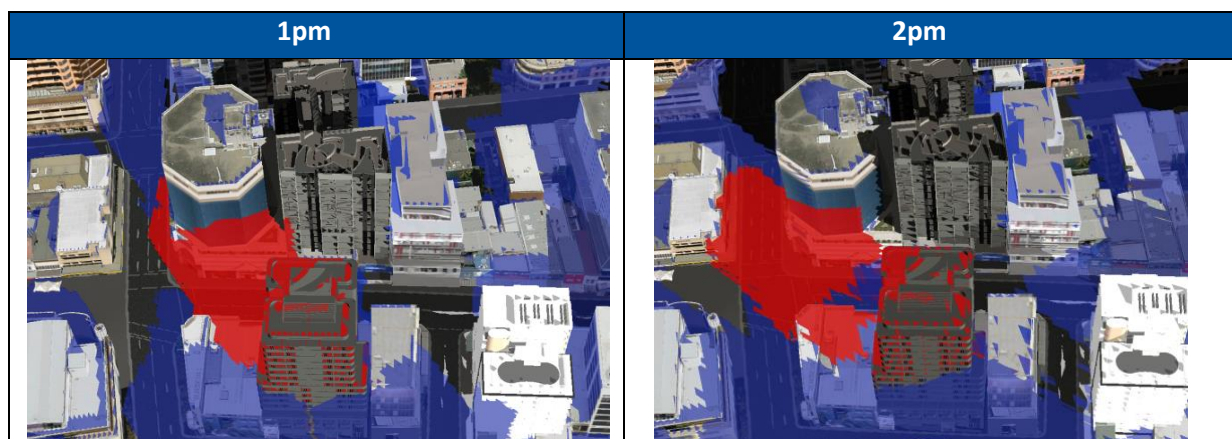
The building height of the proposed development is considered suitable with regard to the existing and desired future character of the western precinct of the Bondi Junction Centre. While the proposed development simultaneously exceeds the floor space ratio development standard, the tower form aspect of the proposed development is sufficiently separated and set in from the side boundaries of the site to successfully distinguish it from the podium levels of the development. Further, the front and rear setbacks of the development are reasonable given they align with those setbacks established the adjoining commercial development at 356-360 Oxford Street. On these grounds, the proposed development is considered to be consistent with the objective expressed in clause 4.3(1)(d) of Waverley LEP 2012.

## Shadowing impact

The shadow diagrams submitted in plan form and an analysis using the Waverley Digital Model reveal that the proposed development will cast shadows over existing commercial development located on to the south of Oxford Street between 9am and 3pm during mid-winter (i.e. 21 June). The data show that the proposed development will not overshadow any existing residential development between 9am and 3pm on 21 June. Notwithstanding, the approved mixed use development comprising residential apartments (known as DA-569/2015) relating to the site known as 109 -119 Oxford Street, Bondi Junction (which is directly south and on the southern side of Oxford Street) has yet to be constructed; however Council is aware of early works, including demolition commencing on the site, which provides sufficient evidence to suggest the development consent has been acted upon. A section 96 modification application, known as DA-569/2015/A, is before the Sydney Central Planning Panel and seeks to add two floor levels above the approved development. Therefore, the impact of the proposed development on sunlight that will be received by the residential component of the development at 109-119 Oxford Street will be considered in the assessment of overshadowing impact. The residential component of the development is from the third storey and above and comprises 106 apartments.

The shadowing impact analysis on the development at 109-119 Oxford Street from the Waverley Digital Model is shown in snapshots from the Model, which are included in **Figure 17** below.





**Figure 17:** Snapshot from the Waverley Digital Model showing the extent of shadowing impact caused by the proposed development on the approved and proposed to be modified development (DA-569/2015/A) at 109-119 Oxford Street between 9am and 2pm during mid-winter (snapshots taken at bird's-eye view looking south)

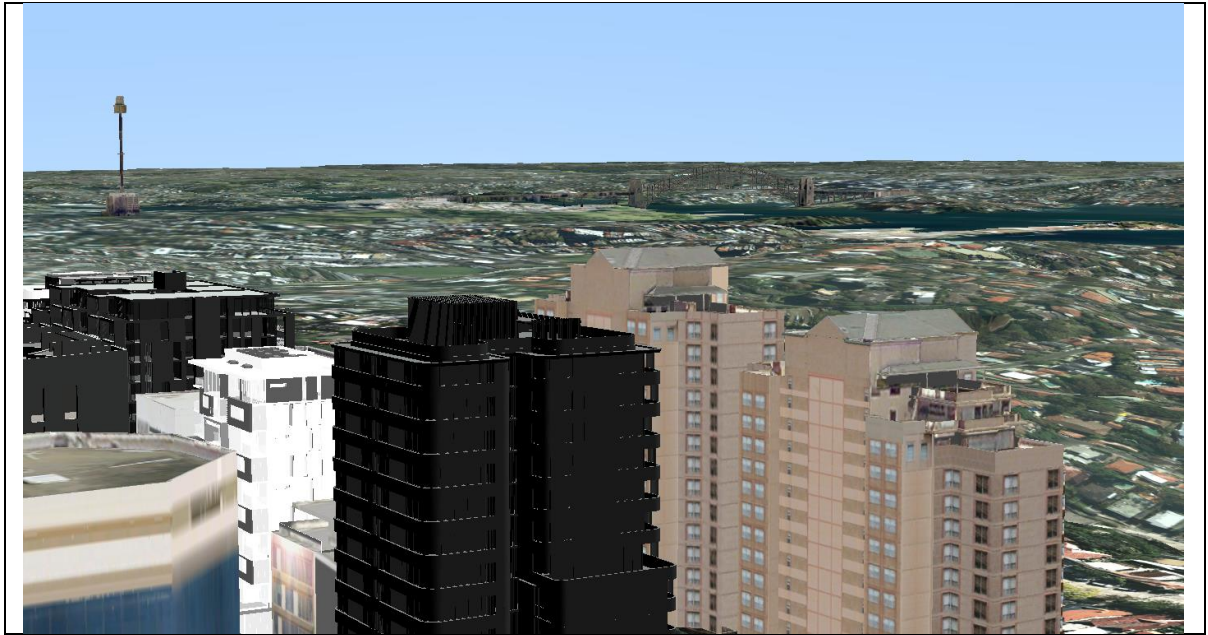
The snapshots in **Figure 17** above reveal that the proposed development will affect sunlight received by north-facing residential apartments of the development at 109-119 Oxford Street (hereafter known as the 'affected development') between 9am and 1pm on 21 June. The majority of the shadowing impact is experienced between 9am and 11am on 21 June as from 12pm the extent of the shadowing impact is reduced to just less than a quarter of the northern elevation of the affected development for approximately an hour until the affected development is not overshadowed by the proposed development from 1pm. In this regard, the proposed development will not be responsible for reducing the amount and duration of sunlight received by at least 70% of apartments of the affected development to less than the minimum amount and duration expected by the Apartment Design Guide, specifically in high density urban localities. In other words, the proposed development will maintain at least two hours of direct sunlight received by the north-facing units of the affected development on 21 June. Therefore, the overall overshadowing impact of the proposed development is deemed reasonable given its effect on the affected development and on the basis of its context within an infill and high density urban environment.

## Views

The proposed development is not expected to affect iconic views and water views that are enjoyed from surrounding residential properties. The Bondi Junction Centre is characterised as a high density locality subject to large scale development standards, and therefore maintenance of views enjoyed from existing residential apartments in the Centre across underdeveloped sites is an unreasonable expectation.

A submission received from an apartment in the eastern tower above Eastgate Shopping Centre (known as Unit 2412 at 83-85 Spring Street) claims the development will reduce views enjoyed from that apartment. The apartment is located on Level 24 of the tower, which is the fifth floor level below the uppermost floor level of the tower (i.e. Level 28). **Figure 18** below is a snapshot from the Waverley Digital Model that shows a typical view looking towards the north-west from about where Level 24 of the eastern tower above Eastgate Shopping Centre would be positioned in reality. This would (as accurately as practicable) represent the view that would be enjoyed by the submitter. The snapshot only identifies two icons within the central Sydney area (i.e. the Centrepont Tower and the Harbour Bridge), which provide useful co-ordinates to anticipate the full composition of views.





**Figure 18:** Snapshot from the Waverley Digital Model showing a typical view from Level 24 of the eastern residential tower above Eastgate Shopping Centre, looking north-west

The snapshot in **Figure 18** reveals that the views enjoyed from the submitter's property are available well above the subject site. The proposed development (as shown in black and in the centre of the snapshot in **Figure 18**) will not affect iconic views of the Sydney CBD skyline, the Sydney Harbour Bridge and other elements that have not been modelled in the snapshot shown. The proposed development will not result in any view loss impact upon the submitter's property. In this regard, a full view loss impact assessment against the view sharing planning principle of the NSW Land and Environment Court that arose from the case of *Tenancy Consulting vs. Warringah Council [2004] LEC 140* is not required.

A separate submission on behalf of the commercial tower at 1 Newland Street also claimed that the proposed development would affect views enjoyed from that development. With regard to the NSW Land and Environment Court planning principle on view sharing, the principle generally applies to view impacts upon residential property. In this regard, the planning principle will not be applied in the assessment of the view impact for this application as the only known view impact is upon commercial development, namely the commercial tower at 1 Newland Street.

The view loss impact from 1 Newland Street has been considered and a photo taken from the uppermost floor level of the development (i.e. Level 12) to show the extent and quality of existing views enjoyed from a typical position of the development is included in **Figure 19** below.



**Figure 19:** Panoramic photo taken from Level 12 of the commercial tower at 1 Newland Street, looking north-west

The view loss impact of the proposed development on the commercial tower at 1 Newland Street is characterised as minor given that the current extent and quality of views of Sydney Harbour, the Sydney Harbour Bridge and Sydney Opera House are mediocre and the development at 1 Newland Street benefits from clearer views of the Sydney CBD skyline when viewed directly west over the road reserve of Oxford Street, which will not be impacted by the proposed development.

### **Other amenity impacts**

The proposed development is considered to be separated by sufficient distances from balconies and window openings of adjoining existing residential development, specifically the two residential towers to the north of the site at 79-81 Graton Street. The development is not expected to manifest in adverse visual privacy impacts on surrounding properties. This has been discussed in detail in section 3.1.5 of this report against the objectives and design criteria relating to visual privacy outlined in the Apartment Design Guide.

The applicant has adequately demonstrated that the variation of the height development standard encountered by the proposal satisfies and is consistent with the relevant objectives of the development standard set out under clause 4.3 of Waverley LEP 2012. The variation does not hinder the development performing satisfactorily against the objectives of the B4 Mixed Use Zone. Further, the variation does not raise any matters of significance that would detrimentally affect State or regional planning and is not considered to diminish the integrity and the public interest of maintaining the height of buildings development standard in relation to the subject development.

The proposal is able to contravene the height of buildings development standard given that the variation is consistent with the relevant objectives of the development standard and zone. The applicant has demonstrated that compliance is unreasonable or unnecessary in the circumstances of the case and there are sufficient planning grounds to justify contravening the development standard in the absence of adverse building height, bulk and scale related impacts.

### *Clause 4.4 Floor space ratio*

The proposed development has an overall floor space ratio of 5.744:1, which exceeds the floor space ratio (FSR) development standard of 5:1 prescribed under clause 4.4 of Waverley LEP 2012 by 669m<sup>2</sup> of gross floor area or 14.9%. The gross floor area calculations diagram provided on Architectural Drawing No DA-2901/20 has been reviewed against the terms of the definition of gross floor area under the dictionary section of Waverley LEP 2012 and the review finds the gross floor area of the development has been accurately calculated.

A written request pursuant to clause 4.6 of Waverley LEP 2012 has been made, seeking to vary the FSR development standard. The justification presented in the written request to seek contravention of the FSR development standard is similar in content to the justification presented for the exceedance of the height of buildings development standard and therefore will not be replicated in this sub-section of this report.

The environmental impacts arising from the exceedance of the FSR development standard would be similar to that arising from the breach of the height of buildings development standard. These impacts have been previously ascertained, analysed and assessed in detail. The assessment finds the associated impacts caused by the proposed development exceeding the height of buildings development standard reasonable in relation to the effect of the development on:

- the amenity of surrounding residential properties
- the streetscape and public domain of the immediate vicinity
- the desired future character of the locality.

The same assessment that is made for the height of buildings development standard breach applies to the FSR development standard breach with regard to the associated environmental impacts of the non-compliance with the development standard. In this regard, the proposed development is considered consistent with the objectives of the FSR development standard expressed in clause 4.4(1) of Waverley LEP 2012, which are extracted as follows:

- (a) to ensure sufficient floor space can be accommodated within the Bondi Junction Centre to meet foreseeable future needs,*
- (b) to provide an appropriate correlation between maximum building heights and density controls,*
- (c) to ensure that buildings are compatible with the bulk, scale, streetscape and existing character of the locality,*
- (d) to establish limitations on the overall scale of development to preserve the environmental amenity of neighbouring properties and minimise the adverse impacts on the amenity of the locality.*

Notwithstanding, the public interest needs to be considered to establish whether there is any public benefit for the proposed development to depart from the FSR development standard.

Bondi Junction has recently experienced a significant uplift in development potential following extensive studies, analysis and community consultation, culminating in Waverley LEP 2012. In some cases, sites have seen a maximum FSR increase of more than double in the past 10 years. The impact from new developments that are compliant with these increased development standards is significantly greater than anticipated by the previous controls, however if the development meets all other relevant standards and controls, these impacts are accepted as being generally anticipated by the controls. The purpose of development standards is to stipulate the maximum development potential of a site and provide certainty to the public and facilitate economic and orderly use of land.

To justify the proposed development, the applicant has offered to enter into a planning agreement with Council for gross floor area that exceeds the maximum gross floor area permitted by the FSR development standard in accordance with the *Waverley Council Planning Agreement Policy 2014* (the Policy). The Policy aims to provide a material public benefit that is in the public interest to offset impacts arising from a development contravening a development standard when those impacts are found to be reasonable and non-adverse. The Policy caps the additional gross floor area to enable a developer to enter into a planning agreement to a maximum of 15% in the Bondi Junction Centre. The subject proposal seeks to vary the FSR development standard by 14.9%, which is consistent with the



consistently applied cap of 15% experienced with recently approved tower form developments in the Bondi Junction Centre.

The fundamental principle of the Policy is that any benefit that arises from an agreement to vary *Planning Agreement Policy 2014* development standards is shared between the developer and the community and must be acceptable on environmental impact grounds. Having regard to the Policy, the reasonableness of impacts associated with the additional floor space has been weighted against the likely public interest (i.e. public domain improvements in the area) and it has been concluded that the impacts in this case would be acceptable. This relates to the merits of this case only - the reasonableness of these impacts would have a lesser weight in the absence of a clear public benefit.

It is considered that the proposal is not against the public interest as it complies with the limitations set in the Policy and offers a monetary contribution for public domain work within the Bondi Junction Centre, namely the Bondi Junction Complete Streets Program. If development consent is granted to the application, it is recommended that the in-principle Planning Agreement be accepted by the Sydney Central Planning Panel.

Despite the numerical non-compliances with the height of buildings and FSR development standards, the non-compliances are considered reasonable in this instance as the proposed development does not present as excessive in building bulk and scale, and is consistent with building bulk and scale envisaged for the site and existing surrounding buildings. The non-compliance will also not result in material environmental planning impacts that will adversely affect the amenity of surrounding properties and the public domain. A condition is recommended to require the applicant to enter into a planning agreement for the additional gross floor area of the proposed development as a development contribution that is anticipated to go towards the Bondi Junction Complete Streets Program and the Waverley Affordable Housing Program subject to the *Waverley Council Planning Agreement Policy 2014*.

### **Heritage conservation**

The site contains a local heritage item, known as the 'Imperial Building'. In accordance with clause 5.10(4) of Waverley LEP 2012, the impact of the proposed development on the significance of the heritage item must be taken into consideration prior to the relevant consent authority granting consent to the application.

Council's Heritage Advisor initially made the following comment and recommendation regarding the original form of the proposed development:

#### ***"Comment***

- *The applicant's heritage report has been thoroughly researched.*
- *It is recommended that a heritage interpretation plan be prepared and submitted as part of any conditions of consent.*
- *Façade retention is conventionally accepted as retention through to the first structural bay identified as the front room in such buildings. For this reason the proposed limitation of retained fabric to the street wall with a two story void behind is not supported. Retention of the front room volume s at first floor and sections of the dividing walls at ground and first floors is to be provided as part of any development.*
- *Retention of street facades should be accompanied by restoration of missing or altered fabric including altered window opening to the first floor.*

- *Details of colour finishes are to be submitted as part of any consent. Colours are to be based upon investigation of original colour finishes. The current fashion for neutralizing historic detail through the use of monochromatic colour schemes is not supported.*

### **Recommendations**

*To maintain cohesion with the established streetscape and to ensure conservation of significant heritage listed fabric the following actions are recommended:*

- *A heritage interpretation plan be prepared and submitted as part of any conditions of consent.*
- *Retention of the front room volumes at first floor and sections of the dividing walls at ground and first floors is to be provided as part of any development.*
- *Retention of street facades is to be accompanied by restoration of missing or altered fabric including altered window openings to the first floor.*
- *Details of colour finishes are to be submitted as part of any consent. Colours are to be based upon investigation of original colour finishes. Monochromatic colour schemes neutralizing historic detail are not supported."*

The application was deferred in part to address and respond to the comment and recommendations made by the Advisor. Amended plans and a revised heritage impact statement (prepared by Weir Phillips Heritage and dated 12 April 2017) were submitted which detail the following restoration works to the street façade of the row of buildings on the site that form part of the heritage item:

- installation of a new suspended awning
- rendering and painting of the masonry of the first floor level of the façade, with some parts shown in slight Ashlar lines
- reconstruction of the shopfront level of the façade, including provision of bay windows and insets
- restoration of the original timber framed double hung window openings across the first floor level of the façade
- restoration of decorative urns along the parapet of the façade.

The amended plans and the revised Heritage Impact Statement were referred to the Advisor, who provided the following supplementary comment:

*"The submitted amended drawings have responded to these recommendations in a positive manner the treatment of retained facades, shop fronts and the interface with new construction providing an acceptable interpretation of historic fabric..*

*The proposed treatment of retained street facades is supported."*

Further to the written comment above, the Advisor is satisfied with the methodology of retaining the heritage façade during site works as outlined on a marked up section of the façade that is drawn by iSTRUCT Consulting Engineers, dated 6 April 2017 and received by Council on 20 April 2017. Council is therefore satisfied with the effect of the proposed development on the significant of the heritage item on the site.

The revised Heritage Impact Statement addresses the effect of the amended form of the proposed development on the aesthetics and overall significance of the remaining part of the heritage item extending to the adjoining properties to the west of the site at 356-360 Oxford Street. The façade of that section of the heritage item has been restored in a similar fashion that proposed for the subject development, specifically a rendered and painted finish, the original double hung windows and the

restoration of the decorative urns. The proposed development is therefore considered to enhance the overall visual and aesthetical significance of the heritage item in its entirety.

Council is satisfied with the level of detail on the architectural plans and the Heritage Impact Statement (including its addendum) in terms of determining the assessment of the proposed development on the effect on the significance on the affected heritage item with regard to clause 5.10(5) of Waverley LEP 2012.

### 2.1.9 Waverley Development Control Plan 2012 - Amendment No 4 (Waverley DCP 2012)

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

**Table 8: Waverley DCP 2012 – Part B General Provisions Compliance Table**

Development Control	Compliance	Comment
1. Waste	Yes	<ul style="list-style-type: none"> <li>A waste management plan prepared by Elephants Foot accompanies the application and details the waste management procedures from the demolition and construction phase to the on-going use of the proposed development.</li> <li>Basement Level 1 of the proposed development includes dedicated storerooms for waste and recycling bins for the residential and commercial aspects of the development. Council's Coordinator, Sustainable Waste has recommended the minimum provision of waste and recycling bins for residential apartments and serviced apartments. The provision of commercial bins would be subject to the Waste Management Plan. Conditions of consent are recommended to this effect.</li> <li>The development comprises a chute system within the lift core connected to the waste and recycling bin storeroom in the basement. The chute will provide convenient transportation of waste and recyclables for residents of the development.</li> <li>Waste and recycling collection arrangements are demonstrated on the plans and application. Standard conditions of consent are recommended to regulate the provision of bins required for the development and procedures for collection of bins.</li> </ul>
2. Energy and water conservation <ul style="list-style-type: none"> <li>BASIX</li> <li>Passive energy design and water conservation</li> <li>Green roof</li> </ul>	Yes	<ul style="list-style-type: none"> <li>A BASIX certificate is submitted with the application, demonstrating compliance with energy, thermal comfort and water efficiency targets set under SEPP BASIX.</li> <li>The overall building design, layout and orientation have regard to the passive energy design and water conservation objectives and controls under sections 2.1 and 2.2 of Part B2 of Waverley DCP 2012.</li> <li>The roof level of the development comprises landscaped area associated with the trafficable communal open space area of the</li> </ul>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Green star</li> <li>Energy assessment</li> </ul>		<p>development. The landscaped areas of the communal open space area are not considered to be a 'green roof' for the purposes of assessment under section 2.3 of Part B2 of Waverley DCP 2012. However, the landscaped areas to some degree satisfy the intent and objectives of the controls for green roofs, in terms of improving the environmental and aesthetical performance of the development.</p> <ul style="list-style-type: none"> <li>The development does not intend to seek Green Star certification.</li> <li>An energy assessment report has been submitted to address the energy assessment considerations under section 2.6 of Part B2 of Waverley DCP 2012. Council's Sustainable Waverley sub-program arranged for the report to be peer reviewed, and the review revealed that the methodology and modelling used in the Report are inadequate and inconsistent with criteria under Waverley DCP 2012. A condition of consent is recommended to require the report to be amended to the satisfaction of Council's Sustainable Waverley sub-program prior to the issue of a construction certificate. Refer to section 4.7 of this report for the referral comment on the peer review of the Energy Assessment Report.</li> </ul>
6. Stormwater	Yes (by condition)	<ul style="list-style-type: none"> <li>Council's Senior Design Team Leader, Creating Waverley found the stormwater management plans satisfactory with respect to Part B6 of Waverley DCP 2012 and the <i>Waverley Council Water Management Technical Manual</i>. However, the stormwater management plans were not amended to reflect the amended form of the proposed development. Therefore, a condition of consent is recommended to this effect to the satisfaction of Council's Executive Manager, Creating Waverley prior to the issue of a construction certificate.</li> <li>Waverley LEP 2012 does not identify the site as flood prone.</li> </ul>
7. Accessibility and adaptability <ul style="list-style-type: none"> <li>Accessibility</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The development incorporates lifts, ramps and accessible toilets to cater for people living with a disability who will frequent the</li> </ul>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Adaptable dwellings required: <ul style="list-style-type: none"> <li>10% of all units = 7 units</li> </ul> </li> <li>Unjustifiable hardship</li> </ul>	<p>Yes (by condition)</p> <p>N/A</p>	<p>development. Appropriate conditions of consent are recommended to require the development to demonstrate compliance with relevant requirements under the Building Code of Australia, relevant Australian Standards and the <i>Disability Discrimination Act 1992</i> applying to the development at the construction certificate and on-going use phases of the development.</p> <ul style="list-style-type: none"> <li>The application includes post adaptable apartment plans, which shows some level of commitment to providing adaptable units; however the schedule shown on the cover page of the architectural plans does not nominate which apartments of the development are adaptable. As such, a condition of consent is recommended to require seven apartments of the development to be adaptable and for this requirement to be demonstrated on construction certificate plans.</li> <li>The applicant does not claim unjustifiable hardship as a result of complying with accessibility requirements.</li> </ul>
<p>8. Transport</p> <ul style="list-style-type: none"> <li>Car parking rates for 'Parking Zone 1' and the development is considered 'high density residential flat building': <ul style="list-style-type: none"> <li>29 spaces for one bedroom apartments</li> <li>20 spaces for two bedroom apartments</li> <li>Total of 49 resident spaces</li> <li>Visitor spaces: 14 spaces</li> </ul> </li> <li>No specified rates for serviced apartments. Number of spaces considered on merit.</li> </ul>	<p>Yes</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>The proposed development provides for the following provision of off-street car parking: <ul style="list-style-type: none"> <li>Total of 88 spaces</li> <li>63 resident spaces</li> <li>11 residential visitor spaces</li> <li>3 retail spaces</li> <li>7 adaptable spaces</li> <li>1 car share</li> <li>2 serviced apartment staff spaces.</li> </ul> </li> <li>The development is required to provide for the minimum amount of residential car parking specified by the <i>Guide to Traffic Generating Development 2002</i> as referred to in the ADG as this provides a lesser amount than that required by Waverley DCP 2012. The development provides 14 resident car space more than is required by the resident car parking rates set out in Waverley DCP 2012. The development does not allocate any space for customers of the serviced apartments. In this regard, a condition of consent is recommended for the 14 surplus</li> </ul>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>• Nil minimum car parking rate for business/office and retail uses.</li> <li>• Maximum car parking rate for business/office and retail: <ul style="list-style-type: none"> <li>○ 5 spaces for retail premises</li> <li>○ 1 space for business/office</li> </ul> </li> <li>• Bicycle parking: <ul style="list-style-type: none"> <li>○ 70 spaces for residential</li> <li>○ 7 spaces for residential visitors</li> <li>○ 2 spaces for commercial and retail</li> </ul> </li> <li>• Motorcycle parking <ul style="list-style-type: none"> <li>○ 18 spaces(3 spaces per every 15 spaces provided)</li> </ul> </li> <li>• Loading facilities <ul style="list-style-type: none"> <li>○ 1 bay per 50+ dwellings</li> <li>○ 1 bay per 4,000m<sup>2</sup> of office and commercial premises</li> <li>○ 1 per 400m<sup>2</sup> of retail</li> </ul> </li> </ul>	<p>Yes</p> <p>Yes</p> <p>No (acceptable on merit)</p> <p>Yes</p>	<p>resident spaces to be allocated to each of the 14 serviced apartments in the development.</p> <ul style="list-style-type: none"> <li>• The development as a whole will encourage other modes of transport given its excellent access to frequent public transport service, which addresses the minor oversupply of car parking spaces provided at the development. The development is not expected to generate a large volume of trips that would adversely affect the capacity of the surrounding road network.</li> <li>• The development meets the minimum and maximum rates for commercial and retail uses.</li> </ul> <p>The development provides for a dedicated bicycle storage quarter accommodating:</p> <ul style="list-style-type: none"> <li>○ 70 residential parking paces</li> <li>○ 7 visitor spaces</li> <li>○ 2 retail/commercial spaces.</li> </ul> <p>The development provides for 15 motorcycle parking spaces. The minor shortfall is not considered detrimental to the overall performance of the development to promote alternative modes of transport given it provides for sufficient bicycle parking, a car share space and encourages use of public transport services.</p> <ul style="list-style-type: none"> <li>• The proposed development provides for a loading bay accessed from Rowe Lane. The loading bay can accommodate a medium rigid vehicle. It is adjoined by storerooms, specifically residential and commercial waste storage rooms that can enable practicable collection of waste and bulky goods. It is also well connected to the lift core to provide practicable access to all aspects of the development for when goods are unloaded and delivered.</li> </ul>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Green travel plan required and traffic and transport management plans required</li> <li>Car share</li> </ul>	<p>No (acceptable on merit)</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>A green travel plan and a traffic and transport management plan have not been included in the application. Notwithstanding, the development encourages public transport patronage and alternative modes of transport (i.e. walking and cycling) to cater for the travelling needs of all users of the proposed development. The development can therefore satisfy the objectives under sections 8.5 and 8.6 of Part B8 of Waverley DCP 2012. Given that the development utilises excellent access of the site to public transport services and encourages alternative modes of travel by virtue of its location within a commercial centre and providing bicycle parking, the development is not expected to detrimentally impact on the surrounding road network and the availability of on-street car parking within the Bondi Junction Centre.</li> <li>A car share space is provided on Basement 2 of the proposed development.</li> </ul>
9. Heritage	Yes	As discussed in section 3.1.8 of this report, the proposed development is not expected to materially impact on the significance of the heritage item on the site, but rather enhance it. The development is therefore consistent with the relevant objectives under Part B9 of Waverley DCP 2012.
10. Safety	Yes	<ul style="list-style-type: none"> <li>The proposed development will improve the extent of casual surveillance of Oxford Street and Rowe Lane than currently exists. The lower floor levels of the development comprise residential units that have living rooms and private open space areas orientated to both streets and will have clear sightlines to each street, particularly Rowe Lane given the six storey street wall and basement component of the development addressing Rowe Lane.</li> <li>The pedestrian entry points from Oxford Street and Rowe Lane are considered safe as they are legible and are not expected to facilitate opportunities for concealment that have the potential to compromise the perceived level of safety of the entries.</li> </ul>

Development Control	Compliance	Comment
		<p>Adequate lighting of the entries would assist to eliminate any safety threat.</p> <ul style="list-style-type: none"> <li>• The residential lobby is separated from the serviced apartment lobby. The serviced apartment lobby serves as a secondary residential lobby and incorporates a reception desk that would monitor access and use of the lobby. All entry points are shown to have a gates or doors that would control access to the development from the public domain.</li> <li>• The alcoves that provide access to each retail tenancy from Oxford Street could present as opportunities for concealment, however the alcoves are not considered deep enough to compromise the level of safety for pedestrian walking past the development along the footpath. Further, the shopfronts are predominantly glazed which would facilitate sightlines from the footpath to the majority of the alcoves. Adequate under awning lighting (as required by recommended condition of consent) would eliminate any safety threat.</li> <li>• The development is considered satisfactory with regard to relevant objectives and controls under Part B10 of Waverley DCP 2012.</li> </ul>

Part C2 of Waverley DCP 2012 primarily applies to residential flat buildings within areas zoned R3 and R4 in the Waverley local government area. The following sections of Part C2 of Waverley DCP 2012 are irrelevant to the subject application as the matters referred to in these sections are inconsistent with and are addressed by either the Apartment Design Guide and/or Part E1 (Bondi Junction Centre) of Waverley DCP 2012:

- section 2.2 Site, scale and frontage
- section 2.3 Height
- section 2.5 Setbacks
- section 2.6 Length and depth of buildings
- section 2.13 Communal open space
- section 2.15 Solar access and overshadowing
- section 2.17 Visual privacy and security.

Despite the above sections of Part C2 of Waverley DCP 2012 not applying to the proposed development, the development generally meets the intent of the objectives of the controls contained in those sections of Waverley DCP 2012. **Table 9** below contains an assessment of the proposed development against relevant sections of Part C2 of Waverley DCP 2012.

**Table 9: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table**

Development Control	Compliance	Comment
<b>2.4 Excavation</b>		
<ul style="list-style-type: none"> <li>No fill to raise levels</li> <li>Minimum setback of 1.5m from side boundaries</li> <li>Basements no more than 1.2m out of the ground</li> </ul>	<p>Yes</p> <p>No (acceptable on merit)</p> <p>No (acceptable on merit)</p>	<ul style="list-style-type: none"> <li>Limited fill is proposed and does not significantly raise the existing ground levels of the site.</li> <li>The basement level of the development will have nil setbacks along each boundary of the site. The applicant has undertaken geotechnical investigation (known as Preliminary Geotechnical Investigation prepared by Asset Geotechnical) to address the effects of the proposed excavation in terms of soli disturbance of the subject site and its immediate surrounds.</li> <li>The majority of the basement levels of the development is below ground level. However, the uppermost basement level (i.e. Basement Level 1) of the development extends above ground level (existing) along the Rowe Lane boundary of the site. Rowe Lane is not a primary street frontage and is effectively a service lane. Exposed basement levels are common in Rowe Lane as evident of the basement carpark entry for the adjoining commercial building to the west of the site. Therefore, the exposed basement level of the development is not considered unsightly within a service lane.</li> </ul>
<b>2.5 Setbacks – Refer to Part E1 of WDCP 2012</b>		
<b>2.6 Length and depth of buildings – Superseded by ADG controls</b>		
<b>2.7 Building separation</b>		
	Yes (on merit)	<p>The proposed development is consistent with the objectives of this section of Waverley DCP 2012 as it provides adequate visual and acoustic privacy for future occupants, incorporates appropriate massing and space between existing surrounding buildings and allows for the future development of surrounding sites without compromising separation requirements. Achieving the numeric separation distances on this site is not possible given the dimensions of the site and proximity to surrounding buildings. In lieu of strict numerical compliance with the separation distances, the building has been sensitively designed to address the relevant design criteria in the Apartment Design Guide.</p>

Development Control	Compliance	Comment
<b>2.8 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	<p>Yes</p> <p>Yes</p>	The proposed development appropriately responds to the existing and emerging streetscape character of Oxford Street within the western part of the Bondi Junction Centre. The materials and finishes selected for the proposed development are reflective of contemporary architecture and are sympathetic to the appearance of surrounding buildings in the immediate vicinity of the site and overall Bondi Junction Centre.
<b>2.10 Vehicular access and parking</b>		
<ul style="list-style-type: none"> <li>Integrated into the design</li> <li>Secondary to pedestrian entrance</li> <li>Maximum of 1 x 2-way driveway</li> <li>From rear of side where possible</li> <li>Pedestrian safety</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	The car parking and vehicular access aspects of the development are integrated within the development. Vehicular access is provided from Rowe Lane via a two way car lift system. The vehicular access point is sufficiently separated from the secondary pedestrian access point of the development from Rowe Lane. It will therefore not affect the pedestrian safety of the access point.
<b>2.11 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level</li> <li>Accessible entry</li> <li>Legible, safe, well-lit</li> </ul>	<p>Yes</p>	The proposed development provides two pedestrian entries to access the residential component of the development. The main pedestrian entry is on Oxford Street and is legible and safe. The secondary entry is from Rowe Lane and is easily distinguished by the open screen in front of the internal double high foyer.
<b>2.12 Landscaping</b>		
<ul style="list-style-type: none"> <li>Minimum of 30% of site area landscaped: 269.94m<sup>2</sup></li> </ul>	<p>No (acceptable on merit)</p>	<ul style="list-style-type: none"> <li>The proposed development provides for an overall amount of approximately 216.8m<sup>2</sup> of landscaped area, which is less than the minimum amount of landscaped area required for the site. Despite the non-compliance, the proposed development incorporates landscape elements within some of the private open space areas and the communal rooftop of the development. There are also planters along the outer edge of terraces within the lower floor levels of the development. These plants will enhance the visual quality of the development by softening the dominant built form appearance from the street.</li> </ul>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>50% of the above is to be deep soil</li> </ul>	No (acceptable on merit)	<ul style="list-style-type: none"> <li>The development does not provide for any deep soil on the site, which is acceptable given the size constraints of the site and the expected high density built form for the site envisaged by the zone and applicable development standards under Waverley LEP 2012.</li> </ul>
<b>2.14 Private open space - Superseded by ADG controls</b>		
<b>2.15 Solar access and overshadowing - Superseded by ADG controls</b>		
<b>2.16 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss</li> </ul>	Yes (see previous discussion)	View loss impact has been addressed in section 3.1.8 of this report. The view loss impact has been considered acceptable.
<b>2.17 Visual privacy and security – Superseded by ADG controls</b>		
<b>2.18 Apartment size and layout - Superseded by ADG controls</b>		
<b>2.19 Ceiling heights - Superseded by ADG controls</b>		
<b>2.20 Storage - Superseded by ADG controls</b>		
<b>2.22 Acoustic privacy – Superseded by ADG controls</b>		
<b>2.23 Natural ventilation- Superseded by ADG controls</b>		
<b>2.24 Building services</b>		
<ul style="list-style-type: none"> <li>Integrate building services into the design of the development</li> <li>Provide letterboxes adjacent to the main entrance</li> <li>Services occupying up to 20% of the roof may project above building envelope</li> <li>Must have a minimum of 2m setback from the building edge</li> </ul>	<p>Yes</p> <p>No (resolved by condition)</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>The proposed development cohesively integrates building services and plant rooms such that they are not overly conspicuous from the street.</li> <li>The architectural plans do not detail the location of mailboxes for the residential units. A condition of consent is recommended for letterboxes to be provided in an accessible and secure location within the ground floor level of the development</li> <li>The lift overrun and roof plant compartment occupy approximately 12% of the roof area of the development (which is approximately 555.2m<sup>2</sup>). The lift overrun and roof plant compartment are set back by a minimum of 2m from all building edges and are situated within the centre of the site. They are therefore not expected to be visible from street level.</li> </ul>



**Table 10: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table**

Development Control	Compliance	Comment
<b>1.1 Design</b>		
1.1.1 Frontages	Yes	<ul style="list-style-type: none"> <li>Each shopfront of the development comprises sufficiently sized and proportioned glazed openings that will promote active street frontages.</li> <li>The architectural plans do not indicate that roller shutters will be installed across the shopfronts and a condition of consent is recommended to prohibit the installation of roller shutters over the life of the development.</li> <li>The development provides for awnings over the footpath areas of Oxford Street and Spring Street. Refer to detailed discussion on the design of the awnings in <b>Table 8</b> in this section of this report.</li> </ul>
1.1.2 Lighting	Yes	While lighting of the exterior and interior of the proposed development has not been detailed in the application, it is expected that the retail premises will be adequately lit. A condition of consent is recommended to require the underside of the awnings to comprise lights.
1.1.3 Amenity	Yes	The proposed development includes sufficient facilities to cater for the future use of its retail and commercial premises, specifically two accessible toilet facilities on Level 1 of the development that caters for all commercial and retail premises of the development. The commercial and retail premises have adequate space for further mechanical equipment and other facilities to be retrofitted in order to avoid equipment and facilities being installed outside of the building envelope of the development.
<b>1.2 Noise</b>		
	N/A	Operational matters relating to the specific use of the commercial and retail premises of the development would be subject to separate applications in order to assess the noise impacts of the premises of the development upon surrounding properties. On this occasion, section 1.2 of Part D1 of Waverley DCP 2012 does not apply to the subject application.



Development Control	Compliance	Comment
<b>1.4 Subdivision</b>		
Design of buildings is to interpret the small lot subdivision pattern on street i.e. 6m grid	Yes	The proposed development retains and seeks to restore and refurbish the street façade of the existing row of shop terraces on the site. It will effectively maintain the small and fine-grain lot subdivision pattern established by the shopfronts of original buildings along Oxford Street, specifically terrace shops.
<b>1.5 Heritage and buildings of historic character</b>		
1.5.1 Buildings of historic character	Yes	The site is identified in Figure 5 in section 1.5.1 of Part E1 of Waverley DCP 2012 as containing a 'building of historic character'. The proposed development retains, restores and refurbishes the street façade of the existing buildings on the site. Its impact on the significance of the existing buildings has been assessed previously in this report. The development will respect and enhance the heritage significance of the existing buildings, particularly given that the shopfronts, window openings and decorative roof features will be restored and traditional awnings installed.
1.5.2 Street with heritage and buildings of historic character	Yes	The site fronts part of Oxford Street that is identified as a street with heritage and buildings of historic character in Figure 7 in section 1.5.2 of Part E1 of Waverley DCP 2012. It complies and satisfies the main controls in this section of Waverley DCP 2012 by retaining the street façade of the existing buildings on the site. Balconies and terraces and associated structures (such as screens) are set behind the roof parapet of the street façade of the existing buildings and align with the street setback of the tower form of the development.
<b>1.6 Active street frontages</b>		
<ul style="list-style-type: none"> <li>Oxford Street is deemed a primary shopping street frontages</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The ground floor level retail premises of the proposed development are almost flush or at grade with the footpath levels of Oxford Street. The door openings to the retail premises are set in alcoves and sufficient space is afforded to provide levelled access from the footpath on Oxford Street.</li> <li>Each shopfront of the development comprises sufficient amount of glazed openings, including operable openings to provide direct access to the retail premises</li> </ul>

Development Control	Compliance	Comment
		<p>from the street. The sill height of the glazed openings is flush with the finished ground floor level and footpath across the Oxford Street frontage of the site.</p> <ul style="list-style-type: none"> <li>All fire egress doors and service doors are located on the Rowe Lane frontage of the site. A secondary pedestrian entry point is provided at Rowe Lane, which will provide some level of activation of Rowe Lane as it facilitates a pedestrian route between the development and the Bondi Junction Train and Bus Interchange.</li> <li>The development achieves active street frontages across the ground and first floor levels of the Oxford Street elevation of the proposed development.</li> </ul>
<b>1.7 Street alignment and front setbacks</b>		
<p>Oxford Street frontage:</p> <ul style="list-style-type: none"> <li>Ground and first floors built to lot boundary</li> <li>Second floor and above set back 6m from street frontage and parallel to street boundary</li> <li>Street alignment and front setbacks do not apply to Rowe Lane</li> </ul>	Partial compliance	<ul style="list-style-type: none"> <li>The ground and first floor levels of the proposed development have <b>nil</b> street setbacks along the Oxford Street boundary of the site to establish a two storey street wall. The second floor level and levels above of the development, which forms the tower component of the development, is set back <b>3.27m</b> from the Oxford Street boundary of the site. Refer to detailed discussion on encroachments within the minimum front and street setback zones of the tower form of the development.</li> <li>The front and street building alignments of the tower aspect of the development are parallel to the street boundaries of the site.</li> </ul>
<b>1.8 Separation</b>		
<ul style="list-style-type: none"> <li>Orientated to front and rear</li> <li>Where neighbouring properties have not been redeveloped, side setback controls apply</li> </ul>	Yes	<ul style="list-style-type: none"> <li>The proposed development is principally orientated to the Oxford Street and Rowe Lane boundaries of the site.</li> <li>The adjoining property to the west of the site has been redeveloped; however the adjoining property to the east of the site is underdeveloped. In accordance with general control (b) under section 1.8 of Part E1 of Waverley DCP 2012, side setback controls outlined in section 1.9 of Part E1 of Waverley DCP 2012 apply to the eastern side of the development.</li> <li>The separation controls do not apply to the western side of the proposed development</li> </ul>

Development Control	Compliance	Comment
		as the adjoining commercial tower has no window openings across its eastern wall and its overall building height terminates at the Level 8 of the proposed development. Therefore, the part nil separation between the proposed development and the adjoining commercial tower to the west of the site has no consequence on visual and acoustic privacy and general amenity impacts caused by the proposed development.
<b>1.9 Side and rear boundary setbacks</b>		
<ul style="list-style-type: none"> <li>Discourage living areas and window openings across side boundaries</li> <li>Nil rear setback on lots with rear laneway if separation distances are met</li> </ul>	Yes (acceptable on merit)	<ul style="list-style-type: none"> <li>Refer to detailed discussion on the appropriateness of applying the side setback controls for the eastern side of the proposed development with regard to the intent and objectives of the controls outlined in section 1.9 of Part E1 of Waverley DCP 2012.</li> <li>Refer to detailed discussion on the rear setbacks of the development.</li> </ul>
<b>1.10 Building footprint</b>		
	Yes	The building footprint of the proposed development is considered an appropriate floor plate that enables good residential amenity (solar access and natural cross-ventilation) and addresses all site frontages.
<b>1.11 Building orientation</b>		
<ul style="list-style-type: none"> <li>Block edge to address street</li> <li>No blank walls to public streets.</li> </ul>	Yes	The proposed development is principally orientated to the Oxford Street and Rowe Lane boundaries of the site, which are its northern and southern elevations. The development does not comprise any blank wall across these elevations. It adequately protects the privacy and outlook for residential apartments within the development itself and those apartments surrounding the site. The proposed building is also considered to provide a positive streetscape presentation.
<b>1.12 Number of storeys</b>		
<ul style="list-style-type: none"> <li>8 storeys overall</li> <li>6 storeys block edge form and 2 storeys above</li> </ul>	No (acceptable on merit)	The proposed development comprises 14 storeys overall, excluding its basement levels. The Oxford Street elevation of the development has a two storey street or block edge, which is consistent with the urban form controls under

Development Control	Compliance	Comment
		section 1.2 of Part E1 of Waverley DCP 2012. The appropriateness of the overall building height of the development has been dealt with under clauses 4.3 and 4.6 of Waverley LEP 2012. The non-compliance with the control is not a strong indication that the building height of the development is inappropriate given that recently constructed and approved tower form developments surrounding the site are 14 storeys. Therefore, the number of storeys of the development can be supported on merit as they are contextually appropriate.
<b>1.13 View, vista and tree preservation</b>		
<ul style="list-style-type: none"> <li>Oxford Street is identified as a 'view corridor'</li> </ul>	Yes	The proposed development does not impact on existing view and vista corridors within the road reserves of Oxford Street and Spring Street.
<b>1.14 Open spaces at the street front</b>		
<ul style="list-style-type: none"> <li>Not encouraged for private buildings</li> <li>Only for public buildings where appropriate</li> </ul>	No (acceptable on merit)	The proposed development comprises a perceived consistent building alignment along its Oxford Street frontage, which promotes activity at the street front. While private open spaces fronting streets are discouraged for 'private buildings', the private open space areas across the Oxford Street elevation of the development are recessed sufficiently from the street alignments of the site and do not visually affect the perceived street alignment of the development that is established by the shopfronts and street walls of the development.
<b>1.15 Design excellence</b>		
The development is to exhibit design excellence	Yes	The proposed development exhibits a high standard of design excellence and originally in terms of its built form, architectural expression and articulation, and materials and finishes. If built, the development is considered to be a positive catalyst for future tower form developments within the Bondi Junction Centre.
<b>1.16 Building elevations</b>		
	Yes	<ul style="list-style-type: none"> <li>The building elevations of the proposed development demonstrate high quality architectural design through use of varied materials and finishes.</li> <li>The building alignments of Oxford Street level of the development are set back</li> </ul>



Development Control	Compliance	Comment
		between 300mm and 1.4m from the Oxford Street boundary of the site. The recesses and alcoves can be treated as an extension of the public domain, specifically the footpath areas. Therefore, the development satisfies objective (d) under section 1.16 of Part E1 of Waverley DCP 2012.
<b>1.17 Awnings and colonnades</b>		
<ul style="list-style-type: none"> <li>Awnings are required for Oxford Street</li> <li>Height range of 3.2m - 4.2m and should complement the height, depth and form of existing awnings in the street</li> <li>Provide lighting</li> <li>Be consistent in appearance</li> </ul>	Partial compliance	The proposed development incorporates a street awning across the full extent of its Oxford Street elevation. The awning has a height ranging from 2.88m to 3.2m above footpath level. While the heights of the proposed awning do not fully comply with the required height range, the height of the awnings respond to the original character and architecture of the street façade of the existing terrace shops. The awning has a metal composition and its height and thickness of its fascia match those of adjoining awnings along Oxford Street. A separate condition of consent is recommended for the awning to contain lights in its underside to adequately illuminate the footpath areas during night-time.
<b>1.18 Public art in the private domain</b>		
	N/A	The applicant states that they do not intend to pursue public art in the private domain. This control purely encourages public art and is not obligatory.
<b>1.19 Designing buildings for flexibility</b>		
	Yes	The proposed building has been designed for durability with the ground floor retail spaces capable of accommodating a variety of uses, which addresses the objectives of the control.
<b>1.20 Ceiling heights – Superseded by ADG controls</b>		
<b>1.21 External living areas – Superseded by ADG controls</b>		
<b>1.22 Wind mitigation</b>		
<ul style="list-style-type: none"> <li>Wind study required for over 5 storeys UNLESS a wind tunnel study is required</li> <li>Buildings &gt; 9 storeys, wind tunnel study is required</li> </ul>	Yes	A wind impact assessment report prepared by ViPAC Engineers and Scientists was submitted with the application and investigates the prevailing wind conditions of the site and its surrounds to ascertain whether the proposed development is suitably designed to withstand these conditions. The Report does not include a wind tunnel test; however ViPAC has been previously engaged to conduct such tests on

Development Control	Compliance	Comment
		several developments that are comparable to the proposed development in the Bondi Junction Centre and the results from these tests can be adopted for the wind impact assessment of the proposed development. The Report concludes that the proposed development can appropriately withstand the prevailing wind conditions of the site and its surrounds, provided the balustrade around the communal roof terrace is a minimum height of 1.5m or a landscape buffer that incorporates plants that achieve a mature height of at least 1.5m is implemented. The majority of the perimeter of the communal roof terrace incorporates ample landscaping, which is considered to meet the recommendation made by ViPAC. The Report is included as part of the recommended conditions of consent to give it effect and for the recommendation of screening and landscaping treatment around the communal roof terrace to be implemented.
<b>1.23 Reflectivity</b>		
<ul style="list-style-type: none"> <li>Mitigate reflective surfaces to a maximum of 60% of facade surface area above ground level</li> <li>Report required for buildings with high levels of glazing.</li> </ul>	Yes (by condition)	More than 60% of the overall façade surface area of the proposed development is comprised of glazing. In this regard, a condition of consent is recommended for a reflectivity report to be prepared and submitted to Council prior to the issue of a construction certificate.
<b>1.24 Roller shutters</b>		
<ul style="list-style-type: none"> <li>Roller shutters prohibited on shopfronts</li> </ul>	Yes (reinforced by condition)	The architectural plans submitted with the application do not indicate roller shutters will be installed across each external shopfront of the development that face Oxford Street. A condition of consent is recommended to expressly prohibit roller shutters being installed across the shopfronts of the development over the life of the development.
<b>1.25 Outdoor advertising, signage and structures</b>		
	Yes (by condition)	Signage has not been proposed; however a signage strategy plan will be requested as a condition of consent to ensure that signage is sympathetic to the aesthetics of the development.

Development Control	Compliance	Comment
<b>1.26 Access and movement</b>		
1.26.1 Arcades, through-site links and squares	N/A	The site is not earmarked for a through block or site link.
1.26.2 Vehicular and service access to lots	Yes	The proposed development provides its vehicular access and entry point from Rowe Lane.
1.26.3 Pedestrian overpasses and underpasses	N/A	The proposed development does not include a pedestrian overpass or underpass.
1.26.4 On-site parking	Partial compliance	The majority of the car park is located within the basement levels of the proposed development. Basement Level 1 of the development protrudes more than 1.2m above ground level (existing) of the Rowe Lane frontage of the site. Exposed basement and car parking levels of surrounding buildings are common along Rowe Lane. Therefore, the proposed development will not result in adverse visual impacts upon Rowe Lane.

**Table 12: Waverley DCP 2012 – Part F2 Tourist Accommodation Compliance Table**

Development Control	Compliance	Comment
<b>2.2 Hotels, motels and serviced apartments</b>		
<ul style="list-style-type: none"> <li>Maximum length of stay of 3 months</li> <li>Minimum area of sleeping rooms at a rate of: <ul style="list-style-type: none"> <li>5.5m<sup>2</sup> per occupant staying more than 28 days; and</li> <li>3.25m<sup>2</sup> per occupant staying 28 days or less</li> </ul> </li> </ul>	<p>See discussion</p> <p>Yes</p>	<ul style="list-style-type: none"> <li>The proposed serviced apartments are conceptual in nature and no specific details have been provided in the application given the operator of the serviced apartments is unknown at this stage. See discussion below this table.</li> <li>All of the proposed serviced apartments are in a studio apartment configuration with an internal area of 29m<sup>2</sup>, which is sufficient to accommodate two occupants for any length of stay.</li> </ul>

The following is a detailed discussion of the issues identified in the compliance tables above in relation to the Waverley DCP 2012.

### **Street alignment and front setbacks**

The ground and first floor levels of the proposed development meet the street alignment and front setbacks controls set out under section 1.7 of Part E1 of Waverley DCP 2012; however vary the minimum setback control of 6m from the street wall or façade on ground and first floor levels as the second floor level (or Level 2) and above floor levels of the development are set back by a minimum of 3.27m from the Oxford Street boundary of the site.

The objectives under section 1.7 of Part E1 of Waverley DCP 2012 as they relate to the tower form of the proposed development that addresses Oxford Street are summarised as follows:

- enhance streetscapes
- create consistent and unified building elevations along streets
- improve the quality of the public domain
- ensure building facades create a human scale to the street
- defined the space of public streets.

The southern (Oxford Street) elevation of the tower form of the proposed development is consistent with these objectives. The street setback of the tower form is similar to that of the tower form of the adjoining commercial development at 356-360 Oxford Street. The Oxford Street setback of the adjoining commercial development is considered an appropriate benchmark or precedent for any future redevelopment of the subject site and the adjoining properties to the east of the site in the same street block to follow in order to create consistent and unified building elevations along Oxford Street. Further, the street setback of the tower form of the development provides appropriate visual relief from the street façade of the existing row of terrace shops so to not overly affect the perceived human scale felt as a pedestrian walking past the development along the footpaths of Oxford Street. The southern (Oxford Street) elevation of is well articulated through a mix of high-quality material and finishes, and unified building modulation through consistent horizontal banding and curved edges and ends across the full extent of the tower form of the development. The development will therefore make a positive contribution to and enhance the quality of the streetscape and public domain of the western precinct of the Bondi Junction Centre. In this regard, the street setback of the tower form of the development is considered appropriate given how well the development performs against the relevant objectives under section 1.7 of Part E1 of Waverley DCP 2012.

### **Side and rear boundary setbacks**

The majority of the objectives of the side and rear boundary setbacks under section 1.9 of Part E1 of Waverley DCP 2012 relate to controlling visual and acoustic privacy and light and outlook between buildings. These factors have been considered in the assessment of the proposed development against relevant design criteria under the Apartment Design Guide. The separation distances of the development relative to existing and future adjacent development have been addressed in section 3.1.5 of this report and are found to be appropriate in terms of protecting privacy, outlook, light, air and general amenity for occupants of the subject development and adjacent existing and future development. In this regard, the side and rear boundary setbacks of the development are considered acceptable on merit despite the setbacks not strictly complying with the numerical setback and separation controls set out in sections 1.8 and 1.9 of Part E1

Objective (a) under section 1.9 of Part E1 of Waverley DCP 2012 relates to urban design considerations. The majority of the tower form of the development is set back by a minimum of 3m from the eastern and western boundaries of the site and that set back is considered to provide adequate visual relief and separation from existing and future buildings on adjoining sites. In this regard, the side setbacks of the development are considered appropriate in the context of an infill and high density urban locality and will not compromise the desired future character of the streetscape and public domain environment of the Bondi Junction Centre.

## **Serviced Apartments**

Levels 1 and 2 of the proposed development include 14 serviced apartments. The Statement of Environmental Effects submitted with the application indicates basic operational details of the serviced apartments as the operator is unknown at this stage. The operational details of the serviced apartments as described in the Statement of Environmental Effects are:

- A maximum of two persons for all apartments.
- In-house reception with one to two reception staff (including Duty Manager) employed.
- Room service as required and between the hours of 7am and 7pm with two cleaning/room servicing staff and one maintenance/general duties staff employed.
- Guests will be issued 'security fob' or electronic keycard to allow 24 hours a day, 7 days a week access from the secure entry lobby and designed lift. Guest arriving after reception hours will be provided with a PIN to retrieve a fob/keycard for access to their booked apartment.
- Guest checking out before reception hours will be able to leave their fob/keycard on a check out box in reception.

A plan of management has not been submitted with the application. This detail can be sought, considered and assessed prior to commencement of occupation of the serviced apartments as the operator of the serviced apartments is not known at this stage and therefore operational matters would be conceptual rather than detailed at this time. A condition of consent is recommended for a plan of management to be submitted for the approval of Council prior to commencement of occupation of the serviced apartments of the development.

The level of detail provided with the application is considered to be satisfactory with regard to demonstrating the proposed serviced apartments meet the objectives and relevant controls under section 2.2 of Part F3 of Waverley DCP 2012.

### **2.2 Section 79C(1)(b) – Other Impacts of the Development**

The proposed development is considered to have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being recommended. The development is also capable of complying with the Building Code of Australia.

The proposed development is not expected to 'isolate' and consequently affect the redevelopment potential of adjoining properties to the east of the site at 376-384 Oxford Street given that the proposed development will leave sufficient site area and dimensions for these combined adjoining properties to redevelopment in their own right.

### **2.3 Section 79C(1)(c) – Suitability of the Site for the Development**

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

## 2.4 Section 79C(1)(d) – Any Submissions

The application was advertised for 28 days and site notices were erected on the site in accordance with Part A3 of Waverley DCP 2012. As explained in section 1.3 of this report, the amended plans did not need to be publicly exhibited in accordance with the terms of section 3.6.1 of Part A3 of Waverley DCP 2012.

Six submissions were received from and on behalf of the following properties in Bondi Junction:

- 1 Newland Street
- 1301/79 Grafton Street
- 2202/71-73 Spring Street
- 2302/71-73 Spring Street
- 2412/83-85 Spring Street
- Berger Rona Accountants (property address in this submission has not been identified).

The following issues raised in the submissions have been previously addressed in the body of the report:

- the development exceeds the height of buildings and floor space ratio development standards
- heritage impact
- overshadowing impact
- visual impact and streetscape
- view loss impact.

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

**Issue:** *Noise levels will increase in the area due to the substantial increase of residential accommodation*

**Response:** Noted. Residential development is not considered to be a high-noise generating use and therefore the residential component of the development is not expected to overly affect current noise levels in the Bondi Junction Centre. Standard conditions of consent are recommended to ensure mechanical and plant aspects of the development will not give rise to unreasonable noise impacts.

**Issue:** *Too much development in Bondi Junction*

**Response:** Noted. This matter cannot be used as a reason to refuse development consent to the application.

**Issue:** *Disruption and disturbance caused by the construction of the proposed development*

**Response:** Standard and special conditions of consent are recommended to ensure the construction and site works phase of the development do not unreasonably disturb and disturb the functionality of Rowe Lane and other surrounding lanes and streets as well as the general amenity of surrounding residential properties.



**Issue:** *The development will increase traffic and parking congestion in the area*

**Response:** Noted. The proposed development provides for sufficient off-street parking for vehicles and bicycles and capitalises on its close proximity to the Bondi Junction Train and Bus Interchange. It is not expected to significantly impact on current traffic levels and on-street and public parking capacity within the surrounding road network.

**Issue:** *The proposed development will increase demand on existing physical infrastructure*

**Response:** Noted. Conditions of consent are recommended for the applicant to confer with relevant service authorities and agencies to confirm if upgrades of existing physical infrastructure are required to cater for the net increase in demand on infrastructure and services caused by the proposed development.

## **2.5 Section 79C(1)(e) – Public Interest**

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

## **3. REFERRALS**

### **3.1 Sydney Trains**

The application was externally referred to Sydney Trains as the site is within the ‘railway corridor’ affected by SEPP (Infrastructure) 2007. Sydney Trains reiterated their concurrence on 31 July 2017 based on the amended form of the development and are satisfied the proposed development will not have any adverse impact on the railway corridor, subject to conditions of consent. These conditions are adopted in the recommendation for the application.

### **3.2 SEPP 65 Design Review Panel**

The application was referred to the joint Waverley/Randwick SEPP 65 Design Review Panel (the Panel) for comment on 4 April 2016. The Panel commented on the proposed development against the nine design quality principles of SEPP 65. That commentary has been considered in section 3.1.5 of the report. A condition of consent is recommended for full details of materials and finishes of the development to be submitted for review by the Waverley Design Excellence Panel (which is now the Panel that has succeeded the former Waverley/Randwick SEPP 65 Design Review Panel) prior to a construction certificate being issued for the development.

### **3.3 Creating Waverley – Traffic and Development**

Council’s Professional Engineer – Traffic and Development did not object to the application; however made a comment on an apparent oversupply of car parking spaces provided by the proposed development. The provision of car parking spaces has been addressed in the body of the report and is found to be acceptable. Further, the Engineer has recommended a minor revision of allocation of car parking spaces to increase the provision of visitor car parking spaces. The development meets the minimum visitor car parking spaces required by the Apartment Design Guide and therefore the number of visitor car parking spaces will not be increased by way of condition of consent.

The Engineer recommended a construction vehicle and pedestrian plan of management be prepared and submitted to the satisfaction of the Executive Manager, Creating Waverley prior to a

construction certificate being issued for the development. The Officer has also recommended that the existing vehicle crossings from Rowe Lane to be closed. Conditions of consent are recommended to this effect.

### **3.4 Creating Waverley - Stormwater**

Council's Senior Design Team Leader did not object to the stormwater management plans initially submitted with the application. The stormwater management plans were not amended to reflect the design amendments to the development, and as such, a condition of consent is recommended for the stormwater plans to be amended and submitted to the satisfaction of Council's Creating Waverley sub-program prior to the release of a construction certificate.

### **3.5 Shaping Waverley – Heritage**

Council's Heritage Advisor raised concerns over the original form of the proposed development; however is satisfied with the amended form of the proposed development in terms of its heritage impact. The Advisor's commentary has been provided in section 3.1.8 of this report.

### **3.6 Shaping Waverley – Urban Design**

The Urban Design and Heritage section of Council's Shaping Waverley sub-program raised a number of issues relating to the original form of the proposed development, including:

- excessive building height
- overall building bulk and scale
- oversized balconies
- heritage impacts
- lack of rear lane activation
- apartment amenity.

Council's deferral of the application relayed some of the matters raised above. The amended form of the proposed development has addressed these matters, particularly with regard to rear lane activation and balcony treatment in terms of its effect on building articulation. The full gamut of recommendations and matters made by Urban Design and Heritage section of Council's Shaping Waverley sub-program are not sufficient to require full redesign of the development as the public interface of the development is considered acceptable, subject to conditions of consent, as well as the development achieving a high quality architectural design, functional retail spaces and residential dwellings with reasonable internal amenity.

### **3.7 Sustainable Waverley – Sustainable Energy**

Council's Sustainable Waverley sub-program referred the Energy Assessment Report submitted with the application to an independent consultant for a peer review of the adequacy of the Report. Sustainable Waverley summarised the key issues arising from the peer review of the Report in their referral comment.

Sustainable Waverley recommends that the Report be amended to address the key concerns arising from the peer review and to the satisfaction of the Executive Manager, Sustainable Waverley prior to the issue of a construction certificate of the development. A condition of consent is recommended to this effect.

### **3.8 Sustainable Waverley – Sustainable Waste**

The original application and waste management plan were reviewed by Council's Co-ordinator Sustainable Waste and all recommended conditions of consent are adopted in the recommendation for this application.

### **3.9 Digital Waverley – Land Information**

Council's GIS/Land Information Officer has recommended a condition of consent in relation to allocation of street numbers for the primary premises and the sub-premises, including the identification of the retail and commercial tenancies, serviced apartments and the residential apartments in the development.

#### 4. SUMMARY

The application seeks development consent to demolish all existing terrace shops (with the exception of their street façade) and construct a 14 storey shop top housing development comprised of 5 levels of basement car parking and services, ground floor retail shops, first floor commercial tenancies, 14 serviced apartments and a total 70 residential apartments on the site known as 362-374 Oxford Street, Bondi Junction.

The application has been assessed within the framework of the matters for consideration under section 79C(1) of the *Environmental Planning and Assessment Act 1979*. The main issues in the assessment of the application are as follows:

- inconsistency with the visual privacy design criteria of the Apartment Design Guide
- non-compliance with the height of buildings and floor space ratio development standard under Waverley LEP 2012
- heritage conservation
- front, rear and side building setbacks.

The main issues arising from the assessment of the application are predominantly acceptable on planning merit. A design change condition of consent is recommended to require privacy treatment for the sides of courtyards and balconies of the northern wing of the development at directly adjoin and face the side boundaries of the site in order to afford reciprocal privacy between the subject development and future adjoining development.

The application attracted six submissions and the issues raised in the submissions have been addressed in the body of the report.

The assessment finds that the proposed development is acceptable with regard to its performance against environmental planning instruments, specifically SEPP 65 and Waverley LEP 2012, and the Waverley DCP 2012. The overall design and architecture of the development are of high quality and originality. The development presents a positive catalyst for future tower form development within the Bondi Junction Centre. The development is deemed to be consistent with the desired future character of the Bondi Junction Centre.

The recommendation to the Sydney Central Planning Panel for this application is approval, subject to conditions of consent.

## **5. RECOMMENDATION TO THE SYDNEY CENTRAL PLANNING PANEL**

That the Development Application be **APPROVED** by the Sydney Central Planning Panel subject to the conditions in Appendix A of this report.

**Report prepared by:**

**Application reviewed and agreed on behalf of  
Waverley Council's Development and Building  
Unit by:**

Ben Magistrale  
**Senior Development Assessment Planner**

Lee Kosnetter  
**Manager, Development Assessment (South)**

**Date:** 2 August 2017

**Date:** 10 August 2017

**Appendix of this report:**

**Appendix A** –Recommended conditions of consent.