



Report to the Sydney Central Planning Panel

Panel Reference	2017SCL011
DA Number	DA-569/2015/A
LGA	Waverley
Proposed Development	Modification of approved mixed use development, including provision of two additional floor levels comprising 18 units and an additional basement level, and an offer to enter into a planning agreement
Street Address	109-119 Oxford Street and 34-42 Spring Street, Bondi Junction
Applicant/Owner	Applicant: Mercury 21 Pty Ltd Owner: Mercury 21 Pty Ltd
Date of DA lodgement	- Application originally submitted on 16 March 2016 - Application deferred on 19 May 2017 - Amended plans and additional information received on 29 May 2017
Number of Submissions	Seven submissions received
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Application is made under section 96(2) of the EP&A Act to modify a development consent determined by a regional panel relating to regional development with a capital investment value over \$20 million (the CIV of the development was \$24,710,000)
List of all relevant s79C(1)(a) matters	- State Environmental Planning Policy 55 - Remediation of Land - State Environmental Planning Policy 65 - Design Quality of Residential Flat Development - State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (State and Regional Development) 2011 - State Regional Environmental Plan (Sydney Harbour Catchment) 2005 - Waverley Local Environmental Plan 2012 - Waverley Development Control Plan 2012 - Waverley Planning Agreement Policy 2014
List all documents submitted with this report for the Panel's consideration	- Architectural plans - Statement of Environmental Effects - Copy of submissions
Report prepared by	Ben Magistrale (Senior Development Assessment Planner, Waverley Council)
Report date	9 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

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 summarized, 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

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?

N/A

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

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 is made under section 96(2) of the *Environmental Planning and Assessment Act 1979* and seeks to modify development consent, known as DA-569/2015, that permitted the demolition of existing structures and construction of a 12 storey shop top housing development comprising:

- five levels of basement car parking and services,
- ground floor retail shops,
- first floor commercial tenancies
- a total 86 residential apartments (56 x 1 bedroom, 22 x 2 bedroom and 8 x 3 bedroom)
- site amalgamation.

The former Sydney East Joint Regional Planning Panel granted the development consent on 17 November 2016.

The subject modification application seeks two additional floor levels (comprised of 18 residential apartments) to the approved 12 storey development, an additional basement level of car parking and an overall net increase of 20 residential apartments.

The approved development, as proposed to be modified, maintains the high quality and architecturally distinct building character of the development. It remains consistent with the relevant design quality principles of State Environmental Planning Policy 65 -Design Quality of Residential Apartment Development and design criteria and guidance of the Apartment Design Guide. The approved development, as proposed to be modified, also maintains the retail, commercial and residential uses of the development as envisaged by the aims of Waverley Local Environmental Plan 2012 (Waverley LEP 2012) and the applicable B4 Mixed Use Zone.

The application 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 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-569/2015/A, be approved by the Central Sydney Planning Panel, subject to additional to and modifications to conditions of the current consent, known as DA-569/2015.

1. PREAMBLE

1.1 Site and Surrounding Locality

The subject sites comprise of the following properties and buildings:

Oxford Street

- 109-111 Oxford Street (Lot 1 DP 575911) containing a two storey retail/commercial use building;
- 113-115 Oxford Street (Lot A DP 448076) containing a two storey retail/commercial use building;
- 117 Oxford Street (Lot 2 DP 581271) containing a two storey retail/commercial use building; and
- 119 Oxford Street (Lot 1 DP 581271) containing a two storey retail/commercial use building;

Spring Street

- 34 Spring Street (Lot 12 DP 747297) containing a two storey retail/commercial use building; and
- 36-42 Spring Street (including Lot 12 DP 747297, Lots 3, 4, 5 and 6 in DP 14097) existing on the sites are two storey retail/commercial use buildings.



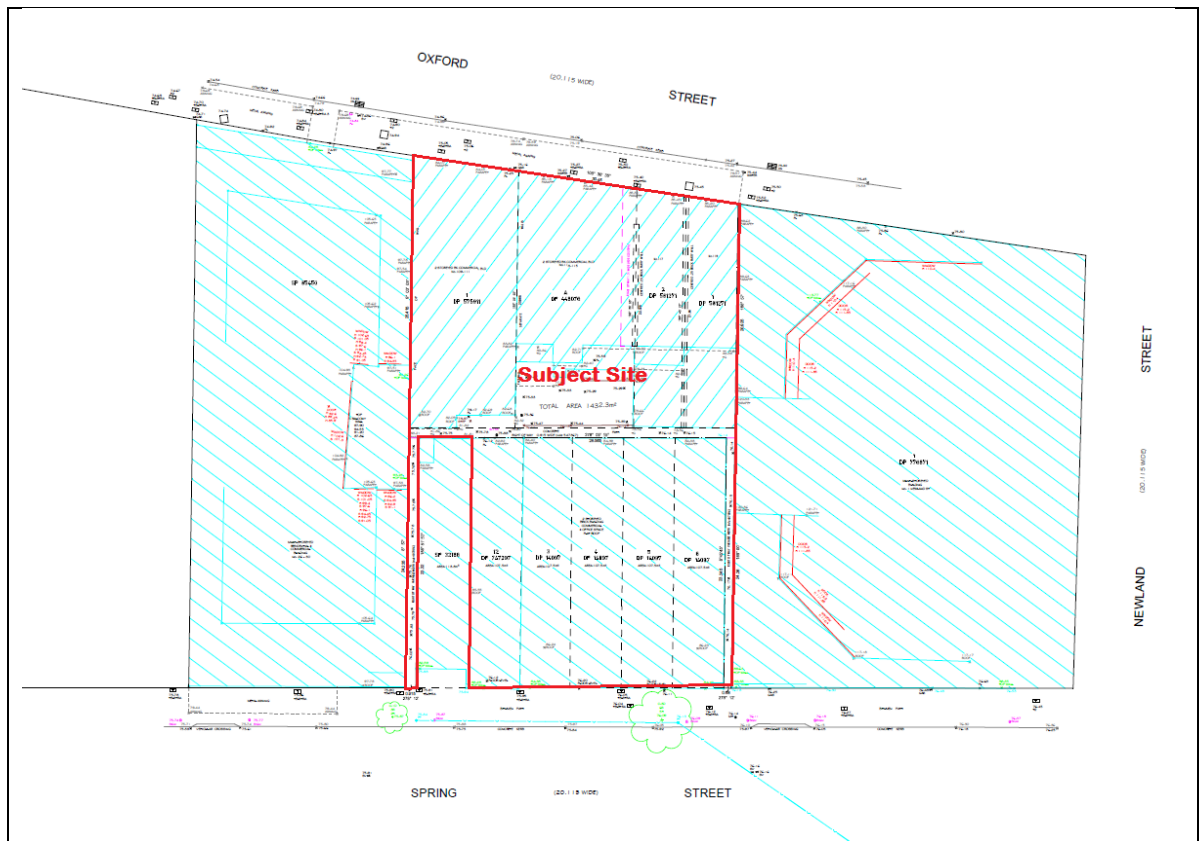


Figure 2: Survey of subject sites and partial survey of surrounding sites (Source: Eric Scerri & Associates Pty Ltd).



Photograph 1: Existing two storey commercial buildings at 109 to 119 Oxford Street as viewed from Oxford Street looking south-west.

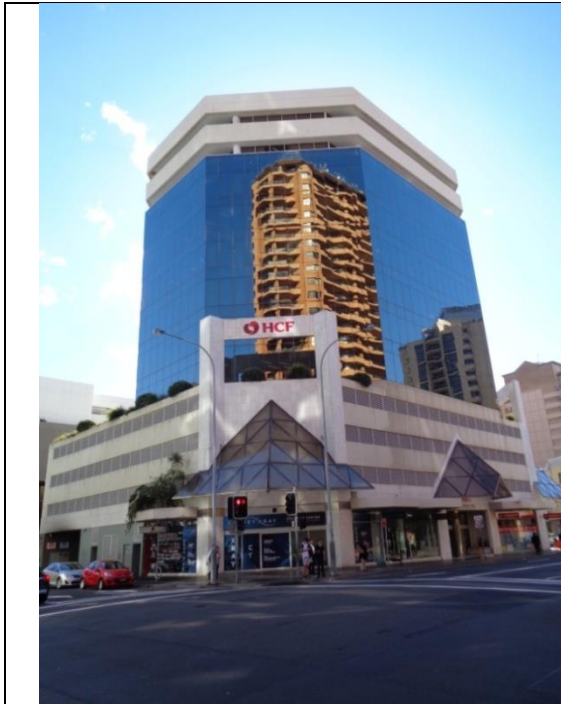


Photograph 2: Existing two storey commercial use buildings from 34 to 38 Spring Street, as viewed from Spring Street looking north.

The locality is characterised by retail and commercial use buildings and mixed use (retail/commercial and residential use) buildings of varying architectural style, height, scale, bulk and density. To the north of the site across Oxford Street are a mixture of two storey and multi-storey retail/commercial use buildings while located further are a number of large mixed (retail/commercial and residential use) building, adjoining the site on the east side is a multistorey retail and commercial use building at 1 Newland Street. Located to the south across Spring Street are a variety of buildings ranging from two to multi-storey buildings uses including mixed retail and commercial uses to mixed retail/commercial and residential use buildings. Adjoining the site on the west side is 32 Spring Street comprising of a two storey commercial building and 26-30 Spring Street consisting of an eight storey commercial building with associated on-site vehicular access from Spring Street and basement car parking.



Figure 3: Aerial imagery of subject sites and surrounding sites.



Photograph 3: Multi level commercial building at 1 Newland Street, Bondi Junction as viewed from the intersection of Spring and Ebley Street.



Photograph 4: Eight storey retail/commercial use building at 26-30 Spring Street as viewed from the Oxford Street.



Photograph 5: Eight storey retail/commercial use building at 26-30 Spring Street as viewed from Spring Street.



Photograph 6: Two Storey retail/commercial use building as viewed from Spring Street.

The immediate locality and more broadly the Bondi Junction Centre is transitioning from modest scale and density retail/commercial buildings to a much higher density urban environment. The change to the urban density and scale is a direct response to the relatively recent uplifts to the height and floor space ratio development standards in the Waverley Local Environmental Plan 2012.

1.2 Details of Approved Development

The original development application, known as DA-569/2015, sought development consent to demolish all existing buildings and construction of a 12 storey shop top housing development comprising of ground floor retail shops, first floor commercial tenancies and a total 86 residential apartments (56 x one bedroom, 22 x two bedroom and 8 x three bedroom), 5 levels of basement including 114 car parking spaces, loading bay, motorcycle parking, bicycle storage, garbage rooms and residential storage cages.

The development application was approved by the former Sydney East Joint Regional Planning Panel on 17 November 2016.

The particulars of the approved development are as follows:

- Five basement levels containing:
 - Total of 114 car parking spaces (93 residential, 13 visitor, 5 retail and 3 commercial) with 11 spaces provided for accessible parking, 30 motor cycle spaces, 7 bicycle spaces, residential storage rooms (containing a total of 52 storage cages)
 - Loading/unloading bay for small rigid truck (measuring 6400 x 2300 x 3000)
 - Service and plant rooms (sprinkler and hydrant pump room, main switch, communications room, substation room, hot water plant and grease arrestor room etc), 21 residential storage rooms (which include bike storage) and associated lift access and fire stairs; and
 - Retail/commercial garbage room, residential garbage room with garbage chute, retail and commercial sanitary facilities, bulky goods waste storage room.
- Ground floor containing:
 - 7 retail shops of varying shape and area;
 - Central two storey open arcade providing a public through site link/access between Spring and Oxford Street;
 - Soft landscaping to the west side of the pedestrian arcade;
 - Open style residential lobby and mail area;
 - Stair providing access to the first floor commercial spaces;
 - Waste management room (garbage bin holding room) to enable effective onsite waste management and collection; and
 - Two way vehicular access driveway at the sites frontage to Spring Street and providing access the 5 basement levels.
- Level 1 containing:
 - 4 commercial tenancies;
 - Open terraces and breezeways providing access to each commercial tenancy; and
 - Soft landscaped area to the east side of the lift and stair core.
- Oxford Street building – Levels 2 to 11 each level contains:
 - 5 x 1 bedroom units
 - 1 x 2 bedroom units
 - Total of 6 units per floor
- Spring Street building – Levels 2 to 5 each level contains:
 - 2 x 3 bedroom units
 - Levels 6 to 11 each level contains:
 - 1 x 1 bedroom units

- 2 x 2 bedroom units
- Roof level with north and south open communal terraces with associated landscaping, seating and facilities, stair and lift access, and plant rooms.
- Amalgamation of all lots and sites.



Figure 4: Photomontage of the approved development as viewed from Oxford Street



Figure 5: Photomontage of the approved development as viewed from Spring Street

1.3 Background to subject application

The subject application was submitted on 16 December 2016.

Following its preliminary assessment, the application was deferred on 19 May 2017 for additional information. The terms of the deferral are outlined in a letter to the applicant dated 19 May 2017, which are summarised as follows:

1. Submission of a 3D digital model.
2. Submission of a full set of architectural plans that clearly identify the proposed modifications to the approved development.
3. Submission of an addendum to the approved Wind Tunnel Test Report that was submitted with the original development application to assess the net wind effect of the additional floor levels to the approved development.
4. Submission of an amended Statement of Environmental Effects to correct discrepancies, specifically description of the number and allocation of car parking spaces and mix of apartments.

Amended plans and additional information were received by Council on 29 May 2017. The plans do not indicate design changes that would generate additional impacts and therefore the plans were not required to be publicly notified in accordance with section 3.6.1 of Part A3 of Waverley Development Control Plan 2012. The amended plans received by Council on 29 May 2017 form the basis of the assessment of the application.

1.4 Proposal

The application has been lodged as a section 96(2) application and provides for the following modifications to the approved development:

- addition of two floor levels above the uppermost floor level of the approved development to include 18 residential apartments (known as Levels 12 and 13 on the plans) with the following apartment mix:
 - twelve (12) x 1 bedroom apartments
 - six (6) x 2 bedroom apartments
- additional level of one basement car park level (known as Basement 6) to include:
 - additional 17 car parking spaces
 - additional 7 motor cycle parking spaces
 - additional 37 bicycle storage spaces
- change of apartment mix of approved development by replacing two x 3 bedroom apartments with one x 1 bedroom apartment and two x 2 bedroom apartments on Levels 4 and 5 of the development, resulting in a net increase of two apartments
- amendments to the layout of the car parking bays of basement levels (i.e. between Basement Levels 1 and 5), including revision of accessible spaces, service ramps and sewer
- reduction of commercial floor area and subsequent increase of terrace area on Level 1 of the development to anticipate its future use as a child care centre.

The proposed modifications change the development statistics of the approved development as shown in **Table 1** below.

Table 1: Development statistics between approved and proposed development schemes

Element	Approved (DA-569/2015)	Proposed (DA-569/2015/A)
Number of apartments	86 in total with unit mix of: • 56 x 1 bedroom • 22 x 2 bedroom • 8 x 3 bedroom	106 in total with unit of: • 70 x 1 bedroom • 32 x 2 bedroom • 4 x 3 bedroom
Overall building height	42.3m RL 118.30 (existing ground level: RL76.000)	49.45m RL 125.45 (existing ground level RL76.000)
Floor space ratio	5:1 6,592.5m ² of GFA	5.75:1 7,581.3m ² of GFA
Number of storeys (above ground level)	12	14
Basement levels	5	6
Car parking	121 • 94 residential spaces • 17 visitor spaces • 1 car share • 5 commercial spaces • 6 retail spaces	140 • 110 residential spaces • 18 visitor spaces • 1 car share • 5 commercial spaces • 6 retail spaces
Other parking		
Bicycle:	101	138
Motorcycle	21	28

The development, as proposed to be modified, is visualised in photomontages shown in **Figures 6 and 7** below.



Figure 6: Photomontage of the development, as proposed to be modified, as viewed from Oxford Street



Figure 7: Photomontage of the development, as proposed to be modified, as viewed from Spring Street

The applicant wishes to enter into a planning agreement for the additional gross floor area contained in the proposed additional floor levels to the approved development. 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 **\$2,844,438**.

The dedications of the contribution for the material public benefit of the Agreement are yet to be determined; however the current version of Council's *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. This 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 modification application under sections 79C and 96 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 Section 96 Considerations

The application is submitted under section 96(2) of the Act.

The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) for the following reasons:

- the land uses of the approved development remain unchanged as the proposed modifications involves adding 20 residential apartments to the approved development and does not substantially alter the apartment mix of the remaining apartments of the approved development
- the perceived building bulk and scale of the approved development, as proposed to be modified, will not significantly alter when the development is viewed from street level
- the additional environmental and amenity impacts arising from the approved development, as proposed to be modified, are deemed reasonable as explained in the body of this assessment report.

Each person who made a submission in respect of the original development application has also been notified of the proposed modification by sending a written notice and submissions received have been considered in the assessment of this application and addressed in the body of this report.

2.2 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 polices (SEPPs), and development control plans.

2.2.1 SEPP (State and Regional Development) 2011

The original development application was classified as 'regional development' as it had a capital investment value of more than \$20 million and the subject application is made under section 96(2) of the Act. Therefore, the functions of Waverley Council as a consent authority are conferred to the Sydney Central Planning Panel for the determination of the subject application in accordance with clause 21 of the SEPP.

2.2.2 SEPP (Building Sustainability Index – BASIX) 2004

An amended BASIX Certificate has been submitted with application, which reflects the proposed modifications to the approved development.

2.2.3 SEPP 55 Remediation of Land

The assessment of the original application considered all matters relevant to the SEPP 55 Remediation of Land and conditions of consent relating to remediation of the site were imposed accordingly. This modification application does not seek to delete or modify the conditions of consent imposed relating to matters under SEPP 55.

2.2.4 SEPP 65 Design Quality of Residential Flat Development

The application was not required to be referred to the Waverley Design Excellence Panel as the modifications are not considered to constitute significant changes to the approved built form. The approved development, as proposed to be modified, is assessed against the nine design quality principles of the SEPP, which is set out in **Table 2** below.

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

Principle	Planning Comment
1. Context and Neighbourhood	The proposed additional floor levels to the approved development will not significantly accentuate the perceived building height, bulk and scale of the approved development when viewed in its streetscape context. The resultant building height, bulk and scale are similar to those of existing and future tower form development within the immediate vicinity of the site and the broader western precinct of the Bondi Junction Centre.
2. Built form and Scale	Despite the proposal exceeding the height of buildings and floor space ratio development standards, the proposal is consistent with the desired future character of the western precinct of the Bondi Junction Centre as its built form character is undergoing wholesale change, specifically in relation to recently built and approved tower form development. The proposal does not affect the overall building alignments, articulation and modulation of the approved development.
3. Density	The proposed 20 additional residential apartments are afforded with a high level of amenity given that they are on the uppermost floor levels that take advantage of views and direct sunlight. Existing infrastructure, public transport and access to jobs within the Bondi Junction Centre are expected to cater for the net increase of 20 apartments in the approved development, as proposed to be modified.
4. Sustainability	The approved development, as proposed to be modified, remains consistent with the sustainability design quality principle in that the development affords adequate solar access and natural cross ventilation that minimises reliance on artificial heating and cooling. The application is accompanied by an amended BASIX certificate, which demonstrates the approved development, as proposed to be modified, meets the energy, water and thermal comfort targets set by SEPP BASIX.
5. Landscape	The proposal does not affect the landscaping scheme of the approved development.
6. Amenity	The proposed additional apartments are afforded reasonable amenity through room dimensions and layout; access to sunlight and natural ventilation, outlook and views; and visual and acoustic privacy.

Principle	Planning Comment
7. Safety	The proposal does not affect the safety and security of the approved development.
8. Housing Diversity and Social Interaction	The proposal maintains an appropriate apartment mix and the additional apartments meet the minimum size and area for one and two bedroom apartments outlined in the Apartment Design Guide. The approved development, as proposed to be modified, therefore responds well to the living needs and household budgets of the immediate locality.
9. Aesthetics	The proposal maintains the overall aesthetics of the approved development in terms of materiality, building articulation and modulation. The additional floor levels respect and reflect the proportion of fenestration and rhythm of building articulation and modulation of the approved development.

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. 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
Part 3 Siting the development		
3F Visual privacy - Adequate distance separation between buildings *over 25m =	No (acceptable on merit)	The additional floor levels to the approved development adopt the same separation distances of the floor levels below of the approved development. These separation distances were accepted in the assessment of the original application in terms of the distances affording reasonable levels of visual privacy

Design Criteria	Consistency	Planning assessment
12m between habitable rooms 6m between non-habitable rooms privacy measures should not compromise outlook & access to light & air		for residential apartments of the development itself and those in existing and future surrounding development. The same assessment applies to the residential apartments in the proposed additional floor levels. Therefore, the additional floor levels will not manifest in discernible additional visual privacy impacts upon surrounding residential uses.
3J Bicycle and car parking The applicable minimum car parking rates are as follows: 0.4 resident spaces per one bedroom unit 0.7 resident spaces per two bedroom unit 1.2 resident spaces per three bedroom unit 1 visitor space per seven units.	Yes	The approved development, as proposed to be modified, falls within the design criteria under Objective 3J-1 of the ADG. Therefore, 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 'metropolitan regional centres' rates have been used given Bondi Junction provides high levels of local employment and access to rail and bus services and these rates are less than those in Waverley DCP 2012. The proposed additional apartments generate a demand of a minimum of 10 resident car spaces and approximately 2 visitor car spaces (whereas the DCP requires 14 resident spaces and 4 visitor spaces). The proposal provides for a net addition of 19 car spaces to the overall amount of car parking spaces in the approved development, as proposed to be modified. One of the 19 additional car spaces is devoted to visitor parking while the remaining spaces are devoted to resident parking. All of the apartments in the approved development, as proposed to be modified, generate a demand of a minimum of 18 visitor spaces, which is met by the overall development given it provides a total of 18 visitor spaces in the car park. The proposal provides for five car spaces more than is required by the net additional apartments of the development. This is considered acceptable given that the development promotes alternative modes of transport by providing parking for bicycle and motorcycle and dedicating a car share space, as well as having excellent access to high frequent public transport services available in the Bondi Junction Centre. Therefore, the approved development, as proposed to be modified, is not expected to generate a large volume of trips that would adversely affect the capacity of the surrounding road network.
Part 4 Designing the building		
Amenity		
4A Solar and daylight access 70% of apartments in a building receive a	Yes	The approved development, as proposed to be modified, comprises 75 apartments out of a total of 106 apartments (i.e. 71% of all apartments in

Design Criteria	Consistency	Planning assessment
minimum of 2 hours between 9am and 3pm mid winter Maximum of 15% of apartments in a building receive no direct sunlight during 9am and 3pm during mid winter		development) that will receive a minimum of two hours of sunlight to living rooms and private open space areas of these apartments between 9am and 3pm in mid winter. - The approved development, as proposed to be modified, comprises 16 apartments out of a total of 106 apartments (i.e. 15% of apartments in the development) that will receive no direct sunlight to living rooms and private open space areas of these apartments between 9am and 3pm in mid winter. - The proposal will not affect the amount and duration of sunlight received by apartments below the additional floor level. - The additional apartments have three aspects and therefore will receive ample daylight.
4B Natural ventilation	Yes	All habitable rooms of the additional apartments are naturally ventilated with either a primary frontage to either Oxford or Spring Street and by virtue of them being located greater than 10 storeys above ground level. The depth of rooms will support natural ventilation and windows have been appropriately designed to suit the intended use of the rooms. A total of 72 apartments or 67% of the residential apartments of the approved development, as proposed to be modified, are naturally cross ventilated. Those units that are not afforded cross ventilation have been designed to maximise internal airflow by incorporating minimal apartment depths.
4C Ceiling heights	Yes	The proposed additional floor levels comprising residential apartments have minimum floor to ceiling height building incorporates the following ceiling height of 2.9m. The proposed modifications do not affect the floor to ceiling heights of the remaining levels of the approved development.
4D Apartment size and layout	Yes	All of the proposed additional apartments comply with the minimum internal area and incorporate high quality internal design that will afford good residential amenity for both future occupants without unreasonably impacting on the amenity of surrounding residential buildings and private open spaces.
4E Private open space and balconies	Yes	All of the additional apartments are provided with private open space in the form of a balcony. Each private open space area is accessed from a living area of individual apartments and includes appropriate privacy treatments and orientations, with many apartments

Design Criteria	Consistency	Planning assessment
		having balconies off bedrooms. All balconies have been designed with regard to the sites exposure to the impacts of wind and noise, and to improve the aesthetic appeal of the building.
4F Common circulation and spaces • max 8 apartments off a circulation core • max apartments sharing a lift is 40 • safe & promote social interaction	No (acceptable on merit)	Each of the additional floor levels comprise a total of nine apartments accessed through open breezeway corridors and the central lift core. While the proposal does not strictly meet the design criterion to limit the number of apartments to eight that are accessed from a circulation core, the building form has been separated into northern and southern wings that are connected by a central corridor which has been designed as an open breezeway that is serviced by three lifts and fire stairs. The design of the common circulation spaces provides for a high quality residential environment.
4G Storage	Yes (by condition)	The proposal does not detail the provision of additional storage for the two additional apartments. Condition 6 of the current development consent requires the construction certificate plans to show the minimum volume of storage for all apartments in the approved development, as proposed to be modified, which will ensure that the additional apartments will be provided with sufficient storage.
Configuration		
4K Apartment mix	Yes	The approved development, as proposed to be modified, maintains a mix of one, two and three bedroom apartments that will support a wide variety of household types and sizes.
4M Facades	Yes	The proposed additional floor levels of the approved development adopt the same high quality architectural design and materials and finishes of the approved development.
4N Roof design	Yes	The proposal maintains the roof design and materials provides of the approved development, which provides a cohesive relationship with the overall building design, streetscape and Bondi Junction Centre.
4O Landscape design and 4P Planting on structures	Yes	The proposal maintains the quantum and design of landscaping of the approved development, including the roof garden, which is considered to improve character of the building and provide amenity for the different land uses within the building.

2.2.5 SEPP (Infrastructure) 2007

The site is located outside of land identified as a 'railway corridor', 'railway station' or land affected by SEPP (Infrastructure) 2007.

The site fronts part of Oxford Street that is not deemed a classified road. 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.

SEPP (Infrastructure) 2007 does not apply to the application.

2.2.6 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. The approved development, as proposed to be modified, is deemed acceptable against the relevant matters for consideration as it does not discernibly affect the perceived building envelope of the development when viewed from immediate foreshores and waterways of Sydney Harbour. Therefore, the approved development, as proposed to be modified, is not expected to overly affect the visual and scenic qualities of Sydney Harbour.

2.2.7 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)

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

Table 4: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposed modifications to the development address the provisions of clause 1.2 of Waverley LEP 2012.
Part 2 Permitted or prohibited development		
Land Use Table B4 Mixed Use Zone	Yes	The proposal adds residential dwellings to the approved development, which is defined as 'shop top housing'. The approved development, as proposed to be modified, remains permitted with development consent in the B4 Mixed Use Zone. The development remains consistent with the zone objectives.
Part 4 Principal development standards		
4.3 Height of buildings 38m	No	- The approved development has an overall building height of 42.3m. - The approved development, as proposed to be modified, has an overall building

Provision	Compliance	Comment
		height of 49.45m. The proposal exceeds the height of buildings development standard by 11.45m or 30% .
4.4 Floor space ratio and 4.4A Exceptions to floor space ratio • 5:1 • 6592.5m² of GFA	No	• The approved development has a total gross floor area (GFA) of 6,592.5m², which achieves a floor space ratio (FSR) of 5:1. • The approved development, as proposed to be modified, has a total GFA of 7,581.3m², which achieves a FSR of 5.75:1. The proposal exceeds the FSR development standard by 988.8m² of GFA or 15%.
4.6 Exceptions to development standards	See discussion	The non-compliance of the approved development, as proposed to be modified, with the height of buildings and FSR development standards does not require to be considered under clause 4.6 of Waverley LEP 2012. Notwithstanding, the non-compliance is considered under section 96(2) of the Act with regard to whether the approved development, as proposed to be modified, is substantially the same as the development for which the consent was originally granted. This discussion along with an assessment against the objectives of clauses 4.3 and 4.4 of Waverley LEP 2012 in relation to building height and FSR is set out below the table.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	The application is accompanied by a geotechnical investigation report that records observations and borehole testing conducted on the site. This report is more detailed than that submitted with the original application, which was a desktop investigation. The latest report addresses the impacts of the proposed additional basement level (known as Basement Level 6). The latest report will form part of the approved documentation associated with the development consent, as proposed to be modified. Conditions currently exist in the development consent that are intended to properly manage excavation so to not detrimentally affect the stability of the site and its immediate

Provision	Compliance	Comment
		surrounds. These conditions remain appropriate for the proposed additional excavation and no further conditions are deemed necessary.
6.5 Active street frontages in the Bondi Junction Centre	N/A	The approved development, as proposed to be modified, does not change the composition of shopfronts and building elevations on the street level of the development.
6.7 Solar access to public spaces in Bondi Junction	Yes	The approved development, as proposed to be modified, will not result in solar access impacts on the nominated areas under clause 6.7 of Waverley LEP 2012 at 12 noon on 21 June.

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

Clause 4.3 - Height of Buildings

The approved development, as proposed to be modified, has an overall building height of 49.45m, which is measured to the top of the screens surrounding the mechanical plant on the roof level of the development. The proposal varies the height of buildings development standard of 38m by 11.45m or 30%. The areas of the approved development, as proposed to be modified, that exceeds the height of buildings development are outlined in **Table 5** below.

Table 5: Building Height Measurements of the approved development (as proposed to be modified)

Element of development	Proposed/finished level	Ground level (existing) directly below	Building height
Lift overrun and plant	RL 125.450	RL 76.000	49.45m
Top parapets to the north elevation at the site's Oxford Street frontage	RL 123.000	RL 75.230	47.77m
Top parapets to the south elevation at the site's Spring Street frontage	RL 123.000	RL 75.110	47.89m

The provisions of clause 4.3 of Waverley LEP 2012 detail a number of objectives to be considered when determining the appropriate maximum height of a building. The variation of the height of buildings development standard is considered with regards to the objectives of the development standard outlined under clause 4.3(1) of Waverley LEP 2012, which 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.*

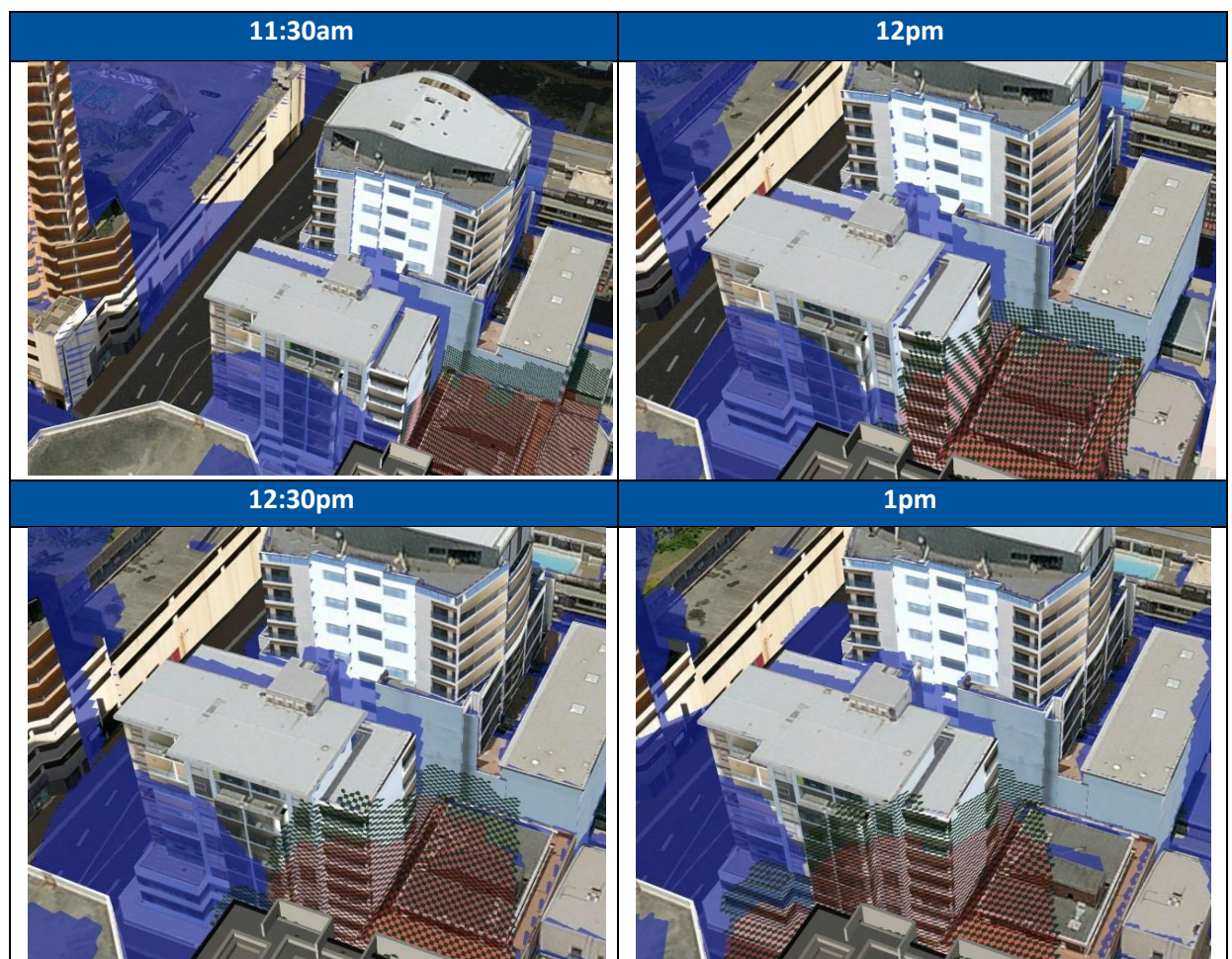
The applicant has presented justification for the exceedance of the height of buildings development standard in the form of a written request under clause 4.6 of Waverley LEP 2012. The application is made under section 96(2) of the Act and therefore the variation cannot be considered under clause 4.6 of Waverley LEP 2012. Nonetheless, the justification presented in the written request will be considered in the merit assessment of the exceedance of the development standard, which is summarised in terms of its content strictly relating to the proposed modifications as follows:

- Recent development approvals granted by Council involved variations to both the height of buildings and floor space ratio development standards to facilitate development that complements the established character of the locality. The approved development, as proposed to be modified, responds to and complements these examples of recent developments that exceed the development standards.
- The tower form of the proposed development is in line with the existing and desired future character of Bondi Junction, which generally varies between 32m and 60m and in some instances up to 75m.
- The tower form of the development achieves good separation, visual and acoustic privacy, no impacts on views, nominal overshadowing, good cross ventilation and solar access and compliance with SEPP 65 and the ADG.
- The proposed building height is compatible with that of neighbouring development and other recent approvals in Bondi Junction and forms an appropriate transition between adjoining buildings.
- The proposal will maintain the character of the tower form and overall building elements of the approved development.
- The proposed building height will manifest in acceptable additional overshadowing of neighbouring properties.
- The proposed reconfiguration of the first floor commercial space will provide opportunity for a future child care centre, which will meet the demand for child care in the locality.
- The proposed modified design ensures that the overall presentation of the development is of a suitable scale and is compatible with the existing streetscape in terms of bulk and scale.
- The additional floor levels maintain the street and side building setbacks of the approved development.
- The additional floor levels are not likely to impact on views enjoyed from surrounding residential properties.
- The proposal is consistent with the objectives of the height of buildings development standard

The justification in the applicant's submission to the proposal breaching the height of buildings development standard is generally considered well-founded. The extent of the breach of the development standard is considered reasonable in that it will not result in adverse building bulk and scale impacts as well as amenity impacts on surrounding residential development. These impacts are considered in detail below with regard to the relevant objectives of the height of buildings development standard. The character test asserted in the written request is something that is valid when considering the appropriateness of the building height and that is factored into the assessment of the variation when considering its streetscape and visual impact.

Shadowing impact

The proposed additional floor levels to the approved development will cast additional shadow over surrounding existing residential development to the south-east of the site at 7-15 Newland Street, and to a lesser extent, the lower levels of the western tower above Eastgate Shopping Centre at 71-73 Spring Street between 11:30am and 3pm during the winter solstice. The impact on affected apartments of the development at 7-15 Newland Street has been ascertained in detail through an analysis using the Waverley Digital Model by comparing shadowing cast between the approved and proposed modified forms of the development. Snapshots from the Model are provided in **Figure 7** show the comparison of the shadowing impacts between the approved and proposed modified form of the development upon the affected development between 11:30am and 3pm during the winter solstice (i.e. 21 June).



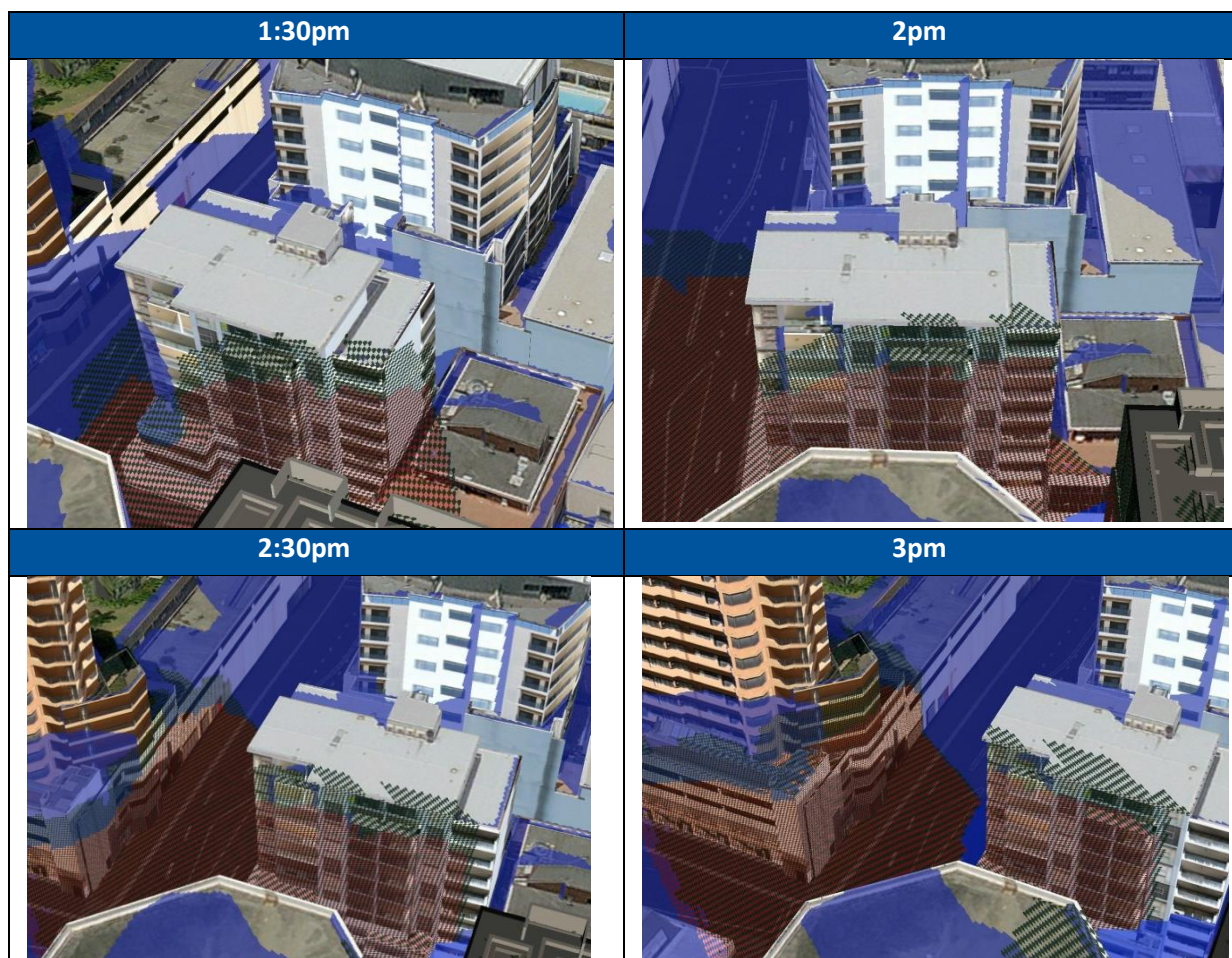


Figure 7: Snapshots from the Waverley Digital Model showing the shadowing comparison between the approved (shown in hatched red) and proposed modified (shown in hatched dark grey) development forms and its impact on surrounding residential development to the south and south-east of the site, looking south and south-east at bird's eye view. Blue shading indicates existing shadowing by surrounding buildings.

The visual analysis of the additional shadow impact upon each affected apartment of the surrounding residential development at 7-15 Newland Street (hereafter known as the affected development) shown in **Figure 7** is quantified in **Table 6** below. **Table 6** summarises the approximate number of apartments of the affected development that will be either partially or wholly affected by the additional overshadowing caused by the proposal. Partially affected means that the additional overshadowing will reduce some but not all sunlight received by a given apartment or will reduce all sunlight received by any other apartment that is partially overshadowed by the approved form of the development; while wholly affected means the additional overshadowing is completely responsible for losing all sunlight received by a given apartment.

Table 6: Approximate number of apartments of the affected development that will be either partially or wholly affected by additional overshadowing caused by the proposal on 21 June

Time	Number of apartments partially affected	Number of apartments wholly affected	Total number of apartments affected
9am	Nil	Nil	Nil
9:30am	Nil	Nil	Nil
10am	Nil	Nil	Nil
10:30am	Nil	Nil	Nil
11am	Nil	Nil	Nil
11:30am	Nil	Nil	Nil
12pm	4	Nil	4
12:30pm	8	Nil	8
1pm	8	2	10
1:30pm	8	3	11
2pm	6	4	10
2:30pm	7	5	12
3pm	5	3	8

The affected development comprises a total of 51 apartments. The proposal will manifest in additional overshadowing impact upon the affected development between 12pm and 3pm and will NOT affect sunlight received by the affected development between 9am and 12pm on 21 June. As shown in **Table 6** above, the additional impact upon the affected development is experienced the greatest between 1pm and 2:30pm on 21 June and affected on average 11 apartments in half hour increments within that period. Further, the additional shadowing is wholly responsible for losing all sunlight received by a maximum of five apartments of the affected development, which is experienced at 2:30pm on 21 June. That amount represents approximately 10% of the total amount of apartments of the affected development and the duration of shadowing impact would be approximately half an hour on 21 June. The proposal will maintain sunlight received by secondary private open space areas that have a western aspect of uppermost floor level dual aspect apartments when the northern elevation of these apartments is overshadowed. Given the above analysis, the duration and extent of the additional impact are considered reasonable, particularly with regard to the context of Bondi Junction Centre being characterised as a high-density locality. The approved development, as proposed to be modified, will maintain a reasonable amount and duration of sunlight received by the majority of apartments in the affected development between 9am and 3pm on 21 June.

In terms of the additional overshadowing experienced by the eastern residential tower above Eastgate Shopping Centre at 71-73 Spring Street, the visual analysis show in **Figure 7** demonstrates the additional overshadowing is experienced between 2:30pm and 3pm to a very minute portion of the western elevation of the lower floor levels of the eastern residential tower. The impact is characterised as minor.

Views

The proposed additional floor levels are not expected to further affect iconic views and water views that are enjoyed from surrounding residential properties than the view impact caused by the approved development. Two submitters have claimed further view loss caused by the proposed additional floor levels. One of the submitters is at Unit 47 of the residential flat building at 7-15 Newland Street, Bondi Junction, which is directly south of the site, which is located on Level 8 of the building. An analysis using the Waverley Digital Model reveals the viewpoint from the balustrade edge of the balcony of Unit 47 and shows that the approved development on the subject site currently obstructs views (see

Figure 8 below), which was deemed acceptable in the assessment and determination of the original application. Therefore, the proposed additional floor levels have no additional effect on views.



Figure 8: Snapshot from the Waverley Digital Model showing views and outlook to the north-west from the balustrade edge of the balcony of Unit 47 (Level 8) of the residential flat building at 7-15 Newland Street, Bondi Junction.

The submitter at Unit 1505 of the western residential tower above Eastgate Shopping Centre at 71-73 Spring Street has claimed that the proposed additional floor levels to the approved development will further affect iconic and water views. These views that encompass the Sydney Opera House, Sydney Harbour Bridge and Sydney Harbour are known to be available when looking directly north and north-west from apartments in the western tower above Eastgate Shopping Centre. This view corridor is not known to extend over the subject site. Therefore, the proposed additional floor levels to the approved development are not expected to have any impact on these iconic and water views enjoyed from Unit 1505 of the western tower above Eastgate Shopping Centre.

Streetscape and 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. **Table 7** outlines the overall building height of 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.

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
362-374 Oxford Street (on northern side of Oxford Street)	DA-89/2016*	52.29m
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.

As demonstrated in **Table 7**, the numerical building height of the approved development, as proposed to be modified, is not too dissimilar to that of comparable recently constructed and approved tower form development within the immediate vicinity of the site. In this regard, the overall building height of the approved development, as proposed to be modified, is contextually appropriate.

Figure 8 includes snapshots from the Waverley Digital Model that compare the building height, bulk and scale between the approved form and proposed modified form of the development when perceived on street level.

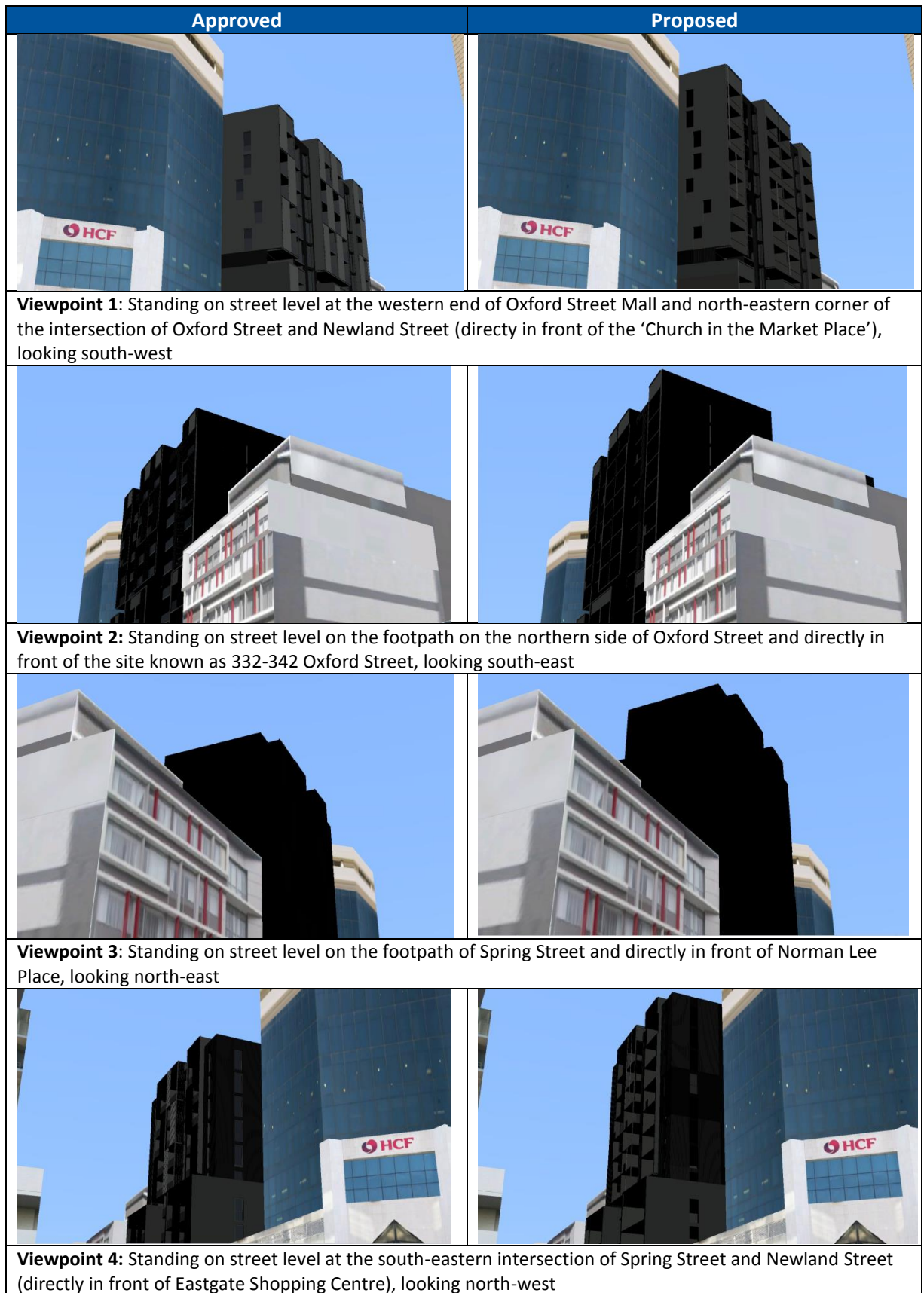


Figure 8: Snapshots from the Waverley Digital Model comprising the perceived building height between the approved form and proposed modified form of the development when viewed from different positions on street level of Oxford Street and Spring Street

Figure 8 demonstrates that the difference of perceived building height between the approved and proposed modified forms of the development is not overly discernible when viewed from street level. Most pedestrians walking past the development would focus their sight directly forward of them at street level rather than directly upwards. In this regard, the proposal is not expected to significantly affect the human scale of the approved development, as proposed to be modified, and any additional visual impact upon the street network and public domain would be minimal.

The analysis of shadowing impact, view impact and streetscape and visual impact of the approved development, as proposed to be modified, finds that the proposed additional floor levels are deemed reasonable on planning merit. The proposal will be consistent with the relevant objectives of the height of buildings development standard, and therefore is considered to be consistent with the desired future character of the locality and be in the public interest.

Clause 4.4 - Floor Space Ratio

The approved development, as proposed to be modified, increase the overall gross floor area to 7,581.3m², which achieves a floor space ratio (FSR) of 5.75:1. The proposal varies the FSR development standard by 15% or 988.8m² of gross floor area (GFA). The GFA calculations diagram provided on Architectural Drawing No DA8.100 has been reviewed against the terms of the definition of GFA under the dictionary section of Waverley LEP 2012 and the review finds the GFA of the approved development, as proposed to be modified, has been accurately calculated.

The applicant has presented justification for the exceedance of the FSR development standard in the form of a written request under clause 4.6 of Waverley LEP 2012. The application is made under section 96(2) of the Act and therefore the variation cannot be considered under clause 4.6 of Waverley LEP 2012. Nonetheless, the justification presented in the written request will be considered in the merit assessment on the exceedance of the development standard, which is similar in content to the justification presented for the exceedance of the height of buildings development standard.

The variation of the FSR development standard is considered against the objectives of the FSR development standard expressed by clause 4.4(1) of Waverley LEP 2012 to guide the merit assessment, 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.*

The environmental impacts arising from the exceedance of the FSR development standard are similar to that arising from the breach of the height of buildings development standard. These impacts have been ascertained, analysed and assessed in detail previously in this report. The assessment finds the associated impacts caused by the additional floor levels reasonable in relation to its effect on the amenity of surrounding residential properties, the streetscape and public domain of the immediate vicinity and the ability of the development standards to achieve 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 proposal is considered consistent with the objectives of the FSR development standard with regard to urban design, visual impact, and environmental and amenity impact matters. Notwithstanding, the public interest needs to be considered to establish whether there is any public benefit for the approved development, as proposed to be modified, 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 doubled 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 proposal, the applicant has offered to enter into a planning agreement with Council for additional gross floor area in accordance the Waverley Planning Agreement Policy 2014 (the Policy). The Policy aims to provide a 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. Although the subject application is made under section 96(2) of the Act and as such the public interest consideration under clause 4.6 of Waverley LEP 2012 does not strictly apply, the public interest test is still applicable to the application as it is a matter for consideration under section 79C(1)(e) of the Act.

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 Precinct. 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 these development standards is shared between 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 (extra FSR) 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, the majority of which is expected to go towards funding public domain work within the Bondi Junction Centre, namely the Complete Streets Program. If approval is granted, it is recommended that the Draft 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*.

2.2.8 Waverley Development Control Plan 2012 - Amendment No 5 (Waverley DCP 2012)

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

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

Development Control	Compliance	Comment
1. Waste	Yes	An amended waste management plan has been submitted with the application to address the net increase of waste and recycling generation caused by the proposed additional residential apartments. The residential bin storage room on Basement Level 1 is proposed to be expanded to approximately 42m ² to accommodate the required amount of bins for the residential component of the approved development, as proposed to be modified. The amended Waste Management Plan calculates that a total of 13 x 660L Mobile Garbage Bins (MGBs) for general waste and 13 x 660L MGBs for recyclables and paper and cardboard are required to cater for the total amount of apartments in the approved development, as proposed to be modified. Condition 59 of the development consent regulates the number of bins needed for the development and will be modified to reflect the required amount of bins based on the proposed total of residential apartments in the development.
2. Energy and water conservation	Yes	- An amended BASIX certificate has been submitted with this application to address the changes to the overall environmental performance of the development caused by the additional floor level. - No further environmental initiatives have been proposed.
6. Stormwater	Yes	Conditions exist in the development consent that deal with stormwater management matters of the approved development. The proposal does not significantly change the stormwater management of the development that would warrant revision of stormwater management plans.

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 2.14 Communal open space
- section 2.16 Solar access and overshadowing
- section 2.18 Visual privacy and security.

Despite the above sections of Part C2 of Waverley DCP 2012 not applying to the approved development, as proposed to be modified, the proposal 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 proposal 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
2.4 Excavation		
	Yes	The additional excavation associated with the proposed basement level of the approved development, as proposed to be modified, has been addressed in a revised geotechnical report submitted with the application. Various conditions regarding excavation are included in the development consent and these conditions will be maintained.
2.5 Setbacks – Refer to Part E1 of WDCP 2012		
2.6 Length and depth of buildings – Superseded by ADG controls		
2.7 Building separation		
	Yes (on merit)	The approved 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.
2.8 Building design and streetscape		
	Yes	The proposed additional floor levels do not overly accentuate the perceived building bulk and scale of the

Development Control	Compliance	Comment
		approved development that would result in the development being out of character with the existing and emerging streetscape. The overall materials and finishes of the approved development remain unchanged.
2.11 Vehicular access and parking		
	Yes	The approved development, as proposed to be modified, maintains the location and size of the vehicular access point of the development from Spring Street. The additional basement level and modifications to the remaining levels of the basement car parking are supported.
2.12 Pedestrian access and entry		
	N/A	The pedestrian entries of the approved development, as proposed to be modified, remain unchanged.
2.14 Communal open space – Superseded by ADG controls		
2.15 Private open space - Superseded by ADG controls		
2.16 Solar access and overshadowing		
- Solar access for apartments within the development specified by the ADG - Overshadowing impacts upon surrounding residential uses	Yes (on merit)	- See assessment comment in Table 3 of this report. - A detailed assessment of the overshadowing impact of the additional floor level upon surrounding residential properties is set out in section 2.2.7 of this report.
2.17 Views and view sharing		
	Yes (on merit)	The view impact of the additional floor levels is set out in section 2.2.7 of this report.
2.18 Visual privacy and security – superseded by ADG controls		
2.19 Apartment size and layout - Superseded by ADG controls		
2.20 Ceiling heights - Superseded by ADG controls		
2.21 Storage - Superseded by ADG controls		
2.22 Acoustic privacy – Superseded by ADG controls		
2.23 Natural ventilation - Superseded by ADG controls		
2.24 Building services		
	Yes	The approved development, as proposed to be modified, maintains the size and portion of the building services occupying less than 20% roof. The setbacks of the building services are setback from the site's side, front and rear boundaries. The proposed building services address the objectives and controls in clause 2.24 building services on merit.

Table 10: Waverley DCP 2012 - Part E1 Bondi Junction Compliance Table

Development Control	Compliance	Comment
1.2 Urban form		
	Yes	The proposed additional floor level maintains the setbacks of the tower form element of the approved development.
1.3 Building use		
	Yes	No change to the building uses of the approved development.
1.4 Access and movement		
	N/A	The proposal maintains the vehicular and pedestrian access points of the approved development. It also maintains the layout, orientation and size of the through-site link between Spring Street and Oxford Street.
1.5 Subdivision		
	Yes	No change to the composition of the shopfront of the approved development.
1.6 Heritage and buildings of historic character		
	Yes	The site does not contain and is not immediately adjacent to any heritage item and buildings of historic character as identified in Figure 8 of section 1.6.1 of Part E1 of Waverley DCP 2012. The proposed additional floor levels to the approved development are not expected to materially impact upon any adjacent heritage item and building of historic character within the wider catchment of the site.
1.7 Active street frontages		
	N/A	The proposal does not change the composition of the shopfront of the approved development and maintains the active street frontages of the development.
1.8 Street alignment and front setbacks		
	Yes (on merit)	The proposed additional floor levels to the approved development maintain the street alignment and front setbacks of the approved development. The street alignment and front setbacks remain appropriate given the site orientation, constraints and location of surrounding buildings.

1.9 Separation - Superseded by ADG controls		
1.10 Side and rear boundary setbacks		
	Yes (on merit)	The proposed additional floor levels maintain the side boundary setbacks of the approved development. These setbacks were considered reasonable in the assessment of the original development application and remain appropriate for the approved development, as proposed to be modified, given the site orientation, constraints and context. The nil side setbacks of the additional floor levels has no effect on the quality of privacy, outlook and light afforded to the additional apartments given that openings are oriented to the street frontages of the site.
1.11 Building footprint		
	Yes	The proposal maintains the building footprint of the approved development, specifically the tower form footprint of the development.
1.12 Building orientation		
	Yes	The proposal maintains the building orientation of the approved development.
1.13 Number of storeys		
Max 8 storeys, seeking a 6 storey block edge form with 2 storeys above.	Yes (on merit)	The proposal changes the number of storeys of the approved development from 12 to 14. While the approved development, as proposed to be modified, is more than the numeric control, a 14 storey built form is considered acceptable in the immediate context given surrounding tower form developments are in excess of eight storeys. While the approved development, as proposed to be modified, exceeds the height of buildings development standard, the perceived number of storeys of the development is not expected to visually impact upon the streetscape and public domain of the immediate vicinity of the site.
1.14 View, vista and tree preservation		
	Yes (on merit)	The proposed modifications are not envisaged to impact on existing public domain views, vistas and trees.
1.15 Open spaces at the street front		
	Yes (on merit)	The proposed modifications do not change the street alignment of the approved development.
1.16 Design excellence		
	Yes	The proposal maintains the overall aesthetics and built form character of the approved development, which would have been considered as part of the assessment and determination of the original development application.

1.17 Building elevations		
	Yes	The proposed additional floor levels are sufficiently articulated and reflect the building modulation and rhythm of the floor levels below.
1.18 Awnings and colonnades		
	N/A	The proposal does not change the awnings of the approved development.
1.19 Designing buildings for flexibility		
	N/A	The proposal does not alter the position and orientation of essential services and utilities of the approved development, including fire stairs and service risers.
1.20 Ceiling heights - Superseded by ADG controls		
1.21 External living areas - Superseded by ADG controls		
1.22 Wind mitigation		
	Yes	A wind tunnel study was submitted with the original application. An addendum from the author who prepared the original Wind Tunnel Study dated 24 May 2017 specifically addresses the proposed modifications to the approved development. The addendum concluded that the change of the building height of the approved development, as proposed to be modified, will result in negligible effects on the adjacent ground level pedestrian wind environment compared with the building height of the currently approved development. Further, the comfort level for the communal rooftop open space of the approved development, as proposed to be modified, remains to adhere to accepted and recommended comfort wind criteria without any mitigation measure.
1.23 Reflectivity		
	Yes	A condition of consent exists in the consent to require the preparation and submission of a reflectivity report to Council, which would capture the full extent of the approved development, as proposed to be modified.

2.3 Section 79C(1)(b) – Other Impacts of the Development

The approved development, as proposed to be modified, is capable of complying with the Building Code of Australia. It is considered that the proposal will have no significant detrimental effect relating to environmental, social or economic impacts on the locality, subject to appropriate conditions being imposed.

2.4 Section 79C(1)(c) – Suitability of the Site for the Development

The site remains suitable for the approved development, as proposed to be modified.

2.5 Section 79C(1)(d) – Any Submissions

The modification application was notified for 14 days in accordance with Part A3 of Waverley DCP 2012. The amended plans and additional information did not need to be publicly exhibited in accordance with the terms of section 3.6.1 of Part A3 of Waverley DCP 2012.

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

- 1706/71-73 Spring Street
- 1505/71-73 Spring Street
- 2202/71-73 Spring Street
- 2302/71/73 Spring Street
- 1706/71-73 Spring Street
- 47/7-15 Newland Street
- 1 Newland Street

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

- non-compliance with the height of buildings and floor space ratio development standards under Waverley LEP 2012
- visual privacy
- overshadowing impact
- view impact
- streetscape and visual impact.

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

Issue: *The conditions existing in the current form of the consent do not adequately protect existing improvements and may limit future development on the adjoining property at 1 Newland Street caused by excavation and construction activities*

Response: Noted. This claim is supported by a report by a structural engineer commissioned by the submitter acting on behalf of 1 Newland Street and the report accompanies the submission. The consent currently includes conditions that are aimed to minimise and protect adjoining properties from the effects of excavation and construction activities based on the extent of excavation required for the originally approved development.

The subject application is accompanied by a revised geotechnical report that records observations and tests arising from site inspections and bore hole tests undertaken by the engineers who prepared the geotechnical report. That report adequately addresses the cumulative impacts of the whole extent of excavation required for the approved development, as proposed to be modified, including the additional basement level comprised of car parking.

The current suite of conditions in the consent that relate to excavation and construction activities are deemed suitable for the whole extent of excavation that will be undertaken at the subject site and no additional conditions (such as those recommended and requested by the submitter's geotechnical consultant) are deemed necessary. Specific excavation and construction methods would also be dealt with at the construction certificate stage and these matters cannot and do not prejudice the merit and acceptability of supporting the additional basement level as proposed in the subject application. Any damage incurred to improvements on the adjoining property at 1 Newland Street and any other property would be a civil matter between the two relevant parties and Council has no responsibility or role to remedy such damage.

Issue: *Noise impacts during excavation and construction activities on the adjoining building at 1 Newland Street, which comprises sensitive uses such as medical practices*

Response: Noted. The suite of conditions existing in the current form of the consent is deemed sufficient to minimise noise and any other disturbance to adjoining properties during excavation and construction activities.

Issue: *The proposal will increase traffic congestion and demand for street parking in Bondi Junction*

Response: Noted. The proposed provides for sufficient off-street parking for vehicles and bicycles to cater for the additional residential apartments in the approved development, as proposed to be modified, and capitalises on its excellent access to public transport services available in the Bondi Junction Area. It is not expected to significantly impact on current traffic levels and on-street and public parking capacity within the surrounding road network.

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.

Issue: *The proposal will be contrary to the community feedback to the Draft 2030 Vision for Bondi Junction presented by Council's Director, Waverley Futures*

Response: Noted. The presentation referred to by the submitter is not a formalised policy document and has no effect in the assessment of the application against the planning legislative and policy framework referred to under section 79C(1) of the Act. It therefore cannot be used as a reason to refuse consent to the modification application.

Issue: *Concern over the method and process of applying for additional apartments, building height and gross floor area to an already approved development*

Response: Noted. An applicant has the right to modify the overall building envelope, density and design of an approved development by way of an application made under section 96 of the Act on the proviso that an approved development, as proposed to be modified, is deemed to be substantially the same as the approved development and that any additional impact arising from any proposed modification to an approved development satisfy relevant matters for consideration under section 79C(1) of the Act. The subject application is deemed to be substantially the same as the approved application/development and its additional planning impacts are deemed acceptable and reasonable as explained in the body of this report. Similar applications for additional storeys to towers in the Bondi Junction Centre have been accepted as section 96(2) applications and have been approved by Council's Waverley Development Assessment Panel and formerly the Sydney East Joint Regional Planning Panel.

2.6 Section 79C(1)(e) – Public Interest

The public interest outcome of the proposal has been considered in detail in section 2.2.7 of this report. The proposal is not considered to be contrary to the public interest.

3. REFERRALS

3.1 Creating Waverley – Traffic and Development

The application was referred to Council's Professional Engineer- Traffic and Development, who did not object to the reconfiguration of the basement car park levels of the development from a vehicular access and manoeuvrability perspective.

4. SUMMARY

The application seeks to modify development consent, known as DA-569/2015, for demolition of existing buildings and construction of a 12 storey shop top housing development comprising of five levels of basement car parking, ground floor retail shops, first floor commercial tenancies and 86 residential units of the levels above that was granted by the former Sydney East Joint Regional Planning Panel in November 2016. The proposed modifications seek two additional floor levels comprised of 18 residential apartments, an additional basement level of car parking, modification to the internal layout of residential floor levels resulting in a further additional two residential apartments.

The application has been assessed within the framework of the matters for consideration under sections 79C(1) and 96(2) of the *Environmental Planning and Assessment Act 1979*. The main issues in the assessment of the application are the effects of the non-compliance with the height of buildings and floor space ratio development standards under Waverley LEP 2012, specifically:

- shadowing impact
- view impact
- streetscape and visual impact
- the public interest.

The assessment finds that the approved development, as proposed to be modified, is substantially the same as the approved development and is acceptable with regard to its performance against environmental planning instruments, specifically SEPP 65 and Waverley LEP 2012, and the Waverley DCP 2012. The development remains consistent with the desired future character of the Bondi Junction Centre.

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

The recommendation to the Sydney Central Planning Panel for this application is approval.

5. RECOMMENDATION TO SYDNEY CENTRAL PLANNING PANEL

That the Section 96 Modification Application be **APPROVED** by the Sydney Central Planning Panel subject to the conditions in Appendices A: and B 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: 7 August 2017

Date: 9 August 2017

Appendices of this report:

Appendix A – Conditions of consent to be modified.

Appendix B – Full set of conditions.