

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SCL033
DA Number	DA-191/2017
LGA	Waverley Council
Proposed Development	Alterations and additions to an existing heritage listed building at 27 Paul Street, demolition of buildings on 8-10 Council Street and construction of three storey residential flat building with basement car parking to create a total of 16 affordable housing units.
Street Address	27 Paul Street and 8-10 Council Street, Bondi Junction
Applicant/Owner	Tricon Management Group Pty Ltd
Date of DA lodgement	18 May 2017 (amended plans lodged 18 January 2018)
Number of Submissions	Original Plans – 44 submissions Amended plans - 23 submissions
Recommendation	Approval – via Deferred commencement consent
Regional Development Criteria	Schedule 7 - Clause 5 of SEPP (State and Regional Development) 2011 - Private infrastructure and community facilities over \$5 million (Affordable Housing).
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • 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 • State Regional Environmental Plan (Affordable Rental Housing) 2009 • Waverley Local Environmental Plan 2012 • Waverley Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Architectural Plans • Statement of Environmental Effects • Copy of submissions • Clause 4.6 statement
Report prepared by	Waverley Council Development Building Unit
Report date	5 July 2018

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?

Yes

Special Infrastructure Contributions

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

Not Applicable

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

1. EXECUTIVE SUMMARY

The application, as amended seeks development consent for an affordable housing development including one new residential flat building, containing 9 units (7 x studio and 2 x 2 bedroom), associated basement car park, landscaped open space area and alterations and additions to the existing heritage listed building to provide affordable housing units. The development is proposed over 3 Torrens Title Allotments including 8-10 Council Street and 27 Paul Street.

The site is zoned R3 Medium Density Residential. A residential flat building is a permitted use in the zone. The applicant is seeking permission for the new RFB on 8-10 Council Street as an 'infill development' under Division 10 of the SEPP (Affordable Rental Housing) 2009, utilising the bonus FSR provided as an incentive to provide affordable housing.

27 Paul Street, Bondi Junction is listed as a Heritage Item under WLEP, therefore the SEPP (Affordable Rental Housing) cannot apply. Despite the SEPP, the applicant can still propose to provide the accommodation as affordable rental housing, but the incentives legislated within the SEPP are not relevant.

The additions and restoration works proposed to the Heritage Listed building at 27 Paul Street have been assessed by Council's Heritage Architect who is satisfied that the demolition works to the rear of the site and the additions are acceptable, subject to restoration of the original building. A detailed schedule of restoration works is recommended as a condition of consent to the satisfaction of Council's Heritage Architect. It is also recommended that the owner sign a deed of agreement which legally commits the applicant to undertake the restoration works in accordance with the approved schedule of restoration works. The additions to the heritage building comply with the maximum FSR and height development standards. The original front part of the heritage building already exceeds the 9.5m LEP height limit.

The accommodation proposed within the heritage building does not meet all the DCP controls for residential flat buildings, however the variations sought to the apartment size of 1 unit and the private open space does not result in substandard accommodation. Each unit will be adequately ventilated with access to sun and some form of open space. It is considered that the proposed additions strike the right balance between providing quality accommodation whilst preserving the heritage aesthetics of the building.

The proposed new building to Council Street on Lots A and B seeks permission under the SEPP (Affordable Rental Housing) which offers a bonus FSR of 0.5:1, which allows a building with an FSR of 1.1:1. The building, as amended has an FSR of 0.86:1 and complies with the maximum FSR for the site (with application of the bonus).

Originally proposed at 4 storeys with 1.5m side setbacks, the building has been reduced in scale to 3 storeys to align with the 9.5m LEP height limit with 3m side setbacks. The building will slightly exceed the 9.5m height limit with a breach of 0.35m or 3% on the northern side of the building and the lift core. The applicant's Clause 4.6 is provided for the Panel's consideration as the consent authority.

Although the building will predominantly comply with the LEP overall height control, Council's DCP also has wall height controls to ensure satisfactory amenity to the adjoining properties. The applicant has failed to justify why a variation to the wall height control should be granted, therefore this assessment report recommends that the top floor of the building at the rear (3rd floor), be setback by 1m from the level below to achieve a 7m wall height to reflect compliance with the DCP and reduce visual and solar impacts to the adjoining properties either side of the site.

The new building seeks to utilise the open space at the rear of Lot 1 behind the heritage building as a shared common open space area with 27 Paul Street. Conversely the Heritage Building proposes to utilise the basement car parking proposed in the new residential flat building to provide car parking space for the units within 27 Paul Street.

Although the built form of each building is assessed under different controls it is considered appropriate that the allotments be consolidated prior to the issue of any Occupation Certificate given that the units within the Heritage Building will be accessing car parking within the basement of the new residential flat building and both buildings will be sharing the common open space between the two buildings.

Council does not anticipate any adverse environmental impacts from this consolidated arrangement. In a practical sense, this addresses the parking constraints associated with the Heritage Building which currently provides only a single car space. Additionally neither site currently provides resident parking (apart from one hard stand car space to Council Street).

Council Street is a classified road, and the concurrence of Roads and Maritime Services was granted on 6 June 2018 subject to conditions of consent.

Forty four (44) submissions were received to the original plans and 23 submissions to the amended plans. The matters raised are discussed in this report and can be summarised to relate to height, overshadowing, privacy, parking and traffic and concerns regarding the affordable housing proposed and antisocial behaviour from the current occupants of the site. Some of these matters have been addressed with the recommendations of the report and other matters are not considered to have sufficient merit to warrant refusal of the application.

The application is recommended for approval subject to a deferred commencement consent to resolve some outstanding matters not addressed in the DA.

1.1 Site and Surrounding Locality

The subject site comprises three (3) properties, including 8-10 Council Street (Lots A and B in DP 162284) and 27 Paul Street (Lot 1 in DP 908329), Bondi Junction. The development site therefore extends from the western side of Paul Street through to the eastern side of Council Street.

The site has a regular rectangular shape and on the northern side boundary adjoins 6 Council Street and 25 Paul Street (approx. 76.2m), with an eastern street frontage to Paul Street (17.07 m), south side boundary with 29-31 Paul Street and 12 Council Street (76.6m) and western street frontage to Council Street (14.9 m). The area of the allotments combined is 1,218m². The site is relatively flat.

The subject site is surrounded by a variety of land uses including detached single dwellings, semi-detached dwellings and residential flat buildings. East of the site on the opposite side of Paul Street is Waverley Park and Waverley Council Chambers. The Bondi Junction Commercial/Retail core including Bondi Junction Transport Interchange is within 700m of the site.

No. 27 Paul Street is listed as a Heritage Item under the Waverley LEP 2012 and is currently operated as a Boarding House with a single hardstand carspace at front (for manager). 8-10 Council Street currently contains 2 x semi-detached properties and are currently used as a boarding house. The sites are zoned R3 – Medium Density Residential under the Waverley Local Environmental Plan 2012 (WLEP).



Figure 1: 27 Paul Street (Heritage listed building)



Figure 2: 8-10 Council Street

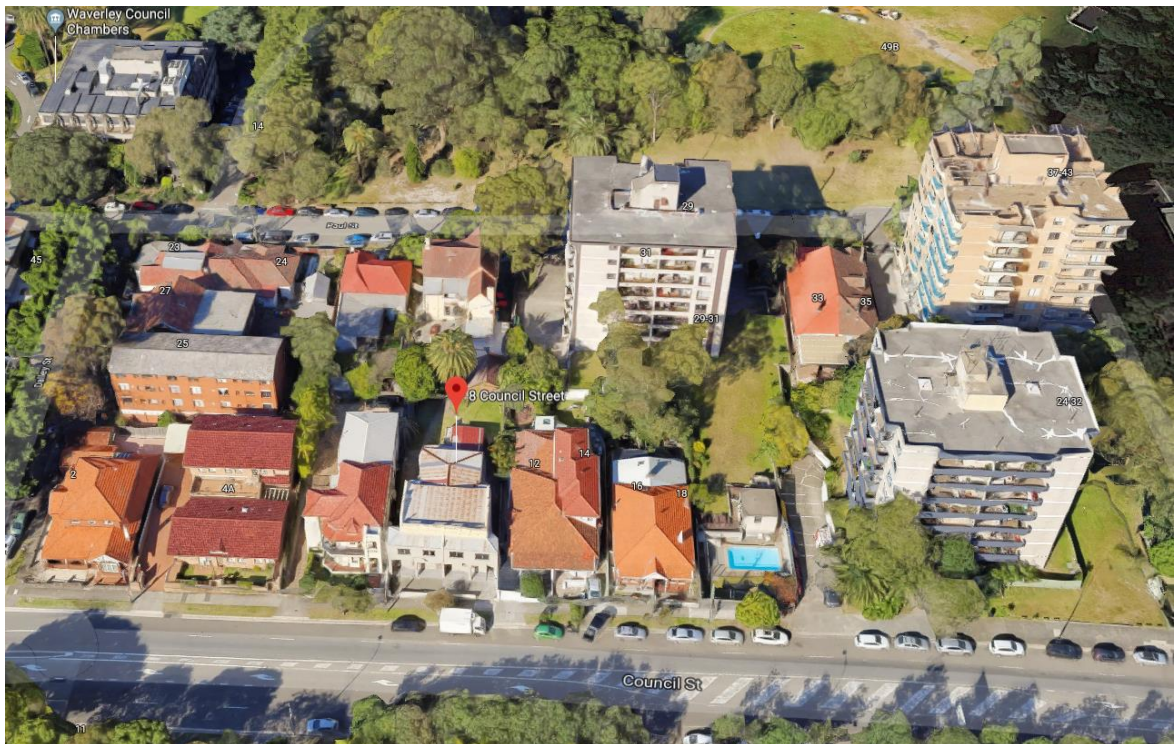


Figure 3: Aerial view of the site (viewed from Council Street)

1.2 Proposal

The application seeks permission for:

- Demolition of the existing buildings fronting Council Street (8-10 Council Street);
- Partial demolition of old additions to the rear of the heritage listed building fronting Paul Street,
- Construction of a three (3) storey residential flat building facing Council Street containing 9 affordable housing units (7 x studios and 2 x 2 bedroom units) and basement car park with 10 car parking spaces accessed from Council Street.
- Restoration to the existing heritage listed building at 27 Paul Street, including alterations and additions to provide 7 units as affordable housing (6 x studio apartments, 1x 2 bedroom apartment)



Figure 4: Photomontage of the proposed building to Council Street

1.3 Relevant History

On 5 October 2017, this development application was deferred by Council, providing the opportunity for the applicant to amend the scheme to address the following key issues;

- Applicability of the SEPP (Affordable Rental Housing);
- Floor space ratio;
- Height;
- Setbacks (side, rear and front);
- Issues related to the general Layout and ADG compliance
- Revised shadow analysis;
- View impact analysis;
- Car parking and design of crossover.

Amended plans and additional information in response to the above matters were submitted to Council on 18 January 2018 and are subject to assessment in the report below.

It is noteworthy that the original estimated cost of works submitted with the application was \$3,714,291 and with the amended plans submitted on 18 January 2018 was updated to \$5,950,244.

2. ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

2.1 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

Schedule 7 of the SEPP, defines *Regionally Significant Development*. Clause 5 includes Private infrastructure and community facilities over \$5 million which includes;

Development that has a capital investment value of more than \$5 million for any of the following purposes:

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The estimated cost of works for this proposal is \$5,950,244 and is therefore referred to the Sydney Central Planning Panel for determination.

2.1.2 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate was submitted with the development application. An amended BASIX is required as a condition of consent. The BASIX Certificate lists measures to satisfy BASIX requirements which are to be incorporated into the proposal. A standard condition is recommended ensuring the measures detailed in the BASIX Certificate are implemented.

2.1.3 SEPP 55 Remediation of Land

The proposal involves the demolition of existing residential buildings and the construction of new residential building with a basement carpark. A more sensitive use is not being proposed in regards to land contamination and given that the land is assumed to be historically used for residential purposes, no further investigations are considered necessary at DA stage.

However, conditions of consent will be imposed which requires that suitable soil testing be undertaken prior to construction to ensure that the land is not contaminated by potential hazardous materials in the existing older buildings.

2.1.4 SEPP (Infrastructure) 2007

The site fronts Council Street which is a classified road and as such the proposal must be assessed against the provisions of clause 101 of the SEPP.

Clause 101 of the SEPP requires the consent authority to not grant consent unless it is satisfied with the following:

- (a) Where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) The design of the vehicular access to the land, or*
 - (ii) The emission of smoke or dust from the development, to*
 - (iii) The nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise and vehicle emissions within the site of the development arising from the adjacent classified road.*

The application was referred to the Roads and Maritime Services on 7 September 2017. RMS did not raise objection to the location of the proposed driveway from Council Street but did request some design refinement. Amended plans were submitted on 18 January 2018 which were referred to RMS for concurrence. Roads and Maritime has reviewed the submitted application and provides concurrence under Section 138 of Roads Act 1993

With regards to the criteria in Clause 101 above, the due to the Heritage Listed dwelling which faces Paul Street, there is no alternative location for vehicular access, satisfying criteria (a). The safety of the ongoing operation of the classified road has been considered by the RMS in its response to the referral of the application under Section 138 of the Roads Act 1993 and concurrence has been given to the proposal subject to conditions. As such the proposal is not considered to result in an unacceptable impact upon the safety, efficiency and ongoing operation of Council Street and satisfied criteria (b).

The proposed design of the front façade is a mostly solid/defensive architectural response to the road noise and emissions impacts. Solid walls are proposed either side of the balconies to assist in noise amelioration, satisfying criteria (c). Conditions of consent are recommended regarding glazing.

2.1.5 SEPP 65 Design Quality of Residential Flat Development

The application was referred to the Waverley Design Excellence Panel (DEP) on 19 June 2017. Following comments received from the DEP, the applicant submitted amended plans on 18 January 2018 to address matters raised. The application was referred again to the February 2018 meeting of the DEP. It is noted, that only the new residential flat building proposed to face Council Street is subject to assessment against the SEPP, as it is defined as a residential flat building, being 3 or more storeys and containing 4 or more dwellings. The adaptation of the existing heritage building is two storeys and accordingly is not subject to assessment against the SEPP.

The comments from this Panel meeting are provided in Table 1 below with regard to the 9 design quality principles under SEPP 65. The commentary does however include the Heritage Listed Building to consider matters relating to 'design excellence'.

Table 1: Assessment against the Nine Design Quality Principles under SEPP 65

Principle	Panel's Comment
1. Context & Neighbourhood	<p>Aggregated backyard deep-soil areas have been part of the historic character of this area. This scheme proposes two separate buildings, a good central landscaped deep-soil area and a number of the units oriented towards this central garden space. A 3 storey building is proposed to Council Street and a 2 storey addition to the heritage building proposed to Paul Street. The Council Street building does not achieve side ADG compliant setbacks however the provision of common open garden space to the centre of the site has merit.</p> <p>Planning Comment: The building to Council Street has been redesigned with a reduced height to three (3) storeys and increased front and side boundary setbacks of 3m. The matter of distance separation is discussed below this table.</p>
2. Built form & Scale	<p>The proposed built form and scale is now satisfactory however the Panel suggests the following issues should be investigated and discussed with Council:</p> <ul style="list-style-type: none"> • The removal of the car space off Council Street so that the through-site link is direct. The entry to the heritage building does not compromise the privacy of the northern units. The northern units could have more amenity by using the northern outdoor space and more soft landscape could be incorporated in the design. • An additional car space could be provided in the basement off 27 Paul Street. The current basement appears costly and inefficient. A peer review of the basement design might be helpful. • The ground floor lobby and bin area in the heritage building has potential to be dark and smelly. This area should be planned so that there is less wasted space (such as under the stair) and more natural light and cross ventilation. • The use of box gutters for the western building seems unnecessary as the slope could be to the external walls – either falling east or west or the roofs could fall to the north or south. <p>Planning Comment: Council's Manager of Traffic and Development has reviewed the proposed basement car parking and recommended conditions of consent. A condition is also to be imposed which requires the bin storage area in the heritage building to be appropriately ventilated.</p>
3. Density	<p>The site is ideal for quality affordable housing, due to its proximity to the park, transport, shopping + services. The proposed FSR of 0.54:1 is acceptable however if efficiencies could be found in the basement and the common circulation areas of the building it may be possible to provide a bit more accommodation. Under development of important urban sites is generally not encouraged.</p>
4. Sustainability	<p>The proposal has the potential to achieve good access to natural light and winter sun and achieve good cross ventilation. With some changes as noted above these benefits could be further improved. The Panel advises that the following issues should also be addressed:</p> <ul style="list-style-type: none"> • The type of window operation should be clearly shown on the elevations for all windows this is yet to be done for the heritage building.

Principle	Panel's Comment
	<ul style="list-style-type: none"> • Acoustic attenuation to the western balconies - it is understood that air-conditioning will be provided however reducing the road noise at the edge of the balcony would help to increase the times that natural ventilation can be relied upon. • Privacy to balconies should also be considered. The louvres provided appear to be aluminium sliding panels whereas a sealed louvre system (equal to breezeway) could be discussed with Council. This type of system can accommodate a mix of solid (aluminium or timber) louvres as well as glass louvres which could be designed to allow for privacy and noise reduction as well as daylighting. <p>Planning Comment: These matter can be addressed as conditions of consent where relevant.</p>
5. Landscape	<p>The landscape design is satisfactory however:</p> <ul style="list-style-type: none"> – The planting detail for the western part of the site has not been provided or updated to reflect the new driveway design, as there is minimal landscaping across the street frontage. Screen planting on the north of the driveway is desirable and could be in the form of vines if soil area is an issue. Scope for similar treatment with the median strip from the boundary back to the V columns could also be considered with awareness of the need for sight lines to be provided. – levels should be included on the landscape drawings and embankment planting noted as there is reasonable slope across the central courtyard – If the access to the eastern building is moved to the south boundary the northern setback areas may be able to have more private courtyard landscapes. – If the manager's car park is under the western building the front yard to the heritage building could have a small covered common area with seating. <p>Planning Comment: An updated landscaping plan is requested as a condition of consent, which will specify that planting to Council Street must facilitate sight lines to address traffic safety.</p> <p>Whilst it would be ideal for units 1 and 4 in the Paul Street building to have access to private courtyards, the creation of new openings to the heritage fabric at the front of the house is not supported. Such compromises are circumstantial of adaptive uses of heritage buildings.</p>
6. Amenity	<p>Internal furniture layouts have now been provided. The Panel have made suggestions for layout improvements to the heritage item.</p> <ul style="list-style-type: none"> • Some alternative arrangements for the units in the western building could be investigated. There may be layouts that increase the living area if the laundry is incorporated in the kitchen. • Would U08 work better and be more open if the bathroom was on the north? A small window could still be provided to the bathroom. <p>Planning Comment: New openings to the heritage buildings are not desired. Utilising the side setbacks as landscaped areas, rather than for private courtyards affords better visual and acoustic privacy to the adjoining building and from a planning perspective the proposed location of private courtyards is appropriate.</p>

Principle	Panel's Comment
7. Safety	The proposal should be able to provide good passive surveillance to the streets, central courtyard and the through-site pedestrian link.
8. Housing Diversity and Social Interaction	The Panel strongly supports the provision of affordable housing in this very well served location. Consideration should be given to the design of garden units to offer some diversity.
9. Aesthetics	Satisfactory
SUMMARY AND RECOMMENDATIONS The Panel considers that the proposal should be developed further in regard to the comments in this report and to achieve better efficiencies in the project. If the issues raised are satisfactorily resolved with the Council, the Panel will not need to see this proposal again.	

Clause 6A Development control plans cannot be inconsistent with Apartment Design Guide

Clause 6A of SEPP 65 requires that DCP's cannot be inconsistent with the Apartment Design Guide (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.

An assessment against the provisions within the ADG is provided in the DCP table below for the new residential flat building which faces Council Street, as this ADG does not apply to the heritage building.

Table 2: Apartment Design Guide

Design Criteria	Compliance	Comment
3F Visual privacy		
<ul style="list-style-type: none"> Min separation distances from buildings to side and rear boundaries: (4 storey) – 6m habitable & 3m non-habitable 	No	<p>The building is setback 3m from the southern and northern side boundaries. It is proposed to provide a 4.5m – 7.5m separation to the adjoining southern semi-detached dwelling and a 4.2m setback to the adjoining northern building which contains 4 residential flats.</p> <p>This matter is discussed in the issues section below.</p>
4A Solar and daylight access		
<ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter 	Yes	<p>9 apartments within the new RFB:</p> <ul style="list-style-type: none"> 100% of the units in the new building facing Council Street receive at least 2 hours mid-winter. <p>The proposal is consistent with the remaining objectives of this part of the ADG ensuring that</p>

Design Criteria	Compliance	Comment
<ul style="list-style-type: none"> A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 		daylight access is satisfactory and incorporating shading in the warmer months.
4B Natural ventilation		
<ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: Min 60% of units naturally ventilated 	Yes	Provided that the windows on the side elevations of the new RFB are openable, all of the units within the building are cross ventilated. A condition is recommended to ensure that the windows are openable.
4C Ceiling heights		
<ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m 	Yes	The floor to ceiling heights within the new building at 2.7m.
4D Apartment size and layout		
<p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <i>Studio</i> = 35m² <i>1 Bed</i> = 50 m² <i>2 Bed</i> = 70 m² <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>	Yes	<p>All studio apartments in the new RFB are at least 35m² and the 2 bedroom units are over 70m².</p> <p>All habitable rooms have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Daylight and air are accessed through the window and are not borrowed from adjoining rooms.</p>
4E Private open space and balconies		
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> 1-bed – 8m² & 2m depth 2-bed - 10m² & 2m depth Ground level, min 15m² & 3m depth 	Yes	<p>100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the ADG in terms of area and depth.</p> <p>The balconies and courtyards are accessed from the main living area and face either east or west depending on the orientation of the unit, so as to not impose on the adjoining properties either side.</p> <p>Recommendations are made to reduce the bulk and scale of the rear balconies which aren't cohesive with the alignment of the adjoining buildings on Council Street. Light weight construction balconies are recommended for the rear elevation. The finishes of the front balconies are consistent with the contemporary palette of materials in the building overall. Screens are proposed or walls are proposed to enhance privacy.</p>

4F Common circulation and spaces		
<ul style="list-style-type: none"> Max of 8 units accessed off a circulation core on a single level 	Yes	There are a maximum of 4 units per floor accessing the same hallway.
4G Storage		
In addition to kitchens, bathrooms and bedrooms, the following is provided: <ul style="list-style-type: none"> 1-bed – 6m³ 2-bed – 8m³ 	Yes	Each apartment is provided with the required volume of storage areas within the basement. The storage provided meets the requirements and objectives of the ADG. A condition imposed to ensure compliance in this respect.

Setbacks and distance separation

The original DA proposal presented to Council had 1.1-1.5m setbacks to both the northern and southern side boundaries. Council did not support these setbacks and deferred the application to provide further distance separation to the side boundaries to align with the ADG controls and intent of the DCP controls.

The Apartment Design Guide notes that for a building of 4 storeys, the distance between habitable rooms and balconies is 6m and 3m between non habitable rooms. The DCP controls state that the side setback for buildings within the R3 zone with a height of 9.5m is 3m, and the proposal complies with this control.

The amended plans proposes a slimmer building profile than the originally submitted scheme and the existing 2 storey building providing a more generous sides setbacks of 3m to both side boundaries. This results in a 4.5m – 7.5m separation to the adjoining southern semi-detached dwelling and a 4.2m setback to the adjoining northern building which presents as a traditional 2 storey terrace house, but contains 4 residential flats.

The qualified architect for the proposal has justified the non-compliance in the Design Statement noting that:

In such instances where the building envelope limits the separation requirements, the use of vertical privacy screens have been incorporated into the elevational treatment, providing privacy between units and maintaining visual outlook. Where the circulation spaces pass windows serving habitable rooms, these have been made opaque for privacy.

The ADG clarifies the 3 aims of the distance separation guidelines which are:

- To ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings,*
- Assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook and*
- To provide suitable areas for communal open spaces, deep soil and landscaping.*

The guide notes that ‘where applying separation to buildings on adjoining sites, apply half the minimum separation distances measured to the building. This distributes the building separation equally between sites’.

Whether these 3 aims are achieved, despite the non-compliance is discussed below;

In consideration of the context of the site, the existing buildings within the immediate vicinity are 2 storeys and set approximately 1m from the side boundaries. The proposed 3 storey building will provide a 3m setback, almost double the existing setback and those of the adjoining buildings. The 8 storey residential flat buildings located to the south and east of the site have greater side setback, as anticipated by the urban design controls which guide taller developments to have more generous side setbacks to provide visual relief between buildings. It is considered that the proposed setbacks of 3m provide suitable massing to the street and spacing between the buildings desirable for the future character.

From an amenity perspective, the new RFB proposes thin windows with angled screening over to prevent direct overlooking to the adjoining northern building which contains 4 units. The adjoining semi-detached property to the south of the site has north facing windows to all rooms of the dwelling. The southern elevation of the proposed building has 4 windows, 3 to bedroom and 1 to a living area. The pedestrian entrance to the building is also on this elevation. The main prominent windows to the adjoining properties have been directed to the front and rear of the site to benefit from the morning and afternoon sunlight.

The non-compliance with the distance separation guidelines occurs at the front section of the building, where the semi-detached dwelling is set approximately 1m from the common boundary and it appears that the windows of the proposed building will align with the front 2 rooms of the semi-detached dwelling.

The windows to unit 8 in the residential flat building will be impacted more from pedestrian movements down the southern boundary of the site, with the potential for residents of the building itself, being able to view into those units. Therefore to protect the privacy of the adjoining semi-detached dwelling as well as unit 8 of the development, it is recommended that the windows on the southern elevation of unit 8 of the proposed building be translucently glazed to avoid direct overlooking. This will meet the intent of the control with regarding to visual and acoustic privacy. It is also recommended that the landscape strip along the southern boundary be extended to the front pedestrian entry to provide an acoustic and visual buffer between the primary entry to the residential flat building and the adjoining property at 12 Council Street and improve the visual presentation of the entry from an urban design perspective.

With regards to daylight access and outlook, the proposed 3 storey building replaces a 2 storey building currently set approximately 1m from the boundary at the closest point (rear additions are setback further from the side boundary). The proposal provides visual relief to the adjoining buildings and better separation than the status quo, alleviating the visual presence of a wall in close proximity to the boundary, providing a opportunities for landscaping. It is recommended however later in this report that the wall height be reduced to comply with the DCP by setting back the upper level at the rear of the building to improve visual and solar impacts to adjoining properties.

The shadow diagrams indicate that the portion of the dwelling where the 6m distance separation is not achieved at the front of the site, those windows are already in shadow by the existing dwelling at 9am and the impacts will remain the same. The additional shadowing impacts occur at the rear of the site where the proposal meets the 6m distance separation control.

The larger setback from both side boundaries in the amended plans provided a slimmer building form to the benefit of the streetscape and adjoining buildings in terms of visual presence, shadows and privacy.

Based on the discussion above and with the recommended conditions of consent, refusal of the application on the basis of the distance separation guidelines provided in the Apartment Design Guide,

is not sufficiently justified in this case as the development remains to achieve the objectives of that guideline.

2.1.6 SEPP (Affordable Rental Housing) 2009

Part 2 Division 1 - In-fill affordable housing

An assessment of the proposed development against the relevant SEPP criteria is provided as follows. This part applies to the proposed development at 8-10 Council Street as it meets the following criteria.

10 Development to which Division applies

(1) This Division applies to development for the purposes of dual occupancies, multi dwelling housing or residential flat buildings if:

(a) the development concerned is permitted with consent under another environmental planning instrument, and

The proposed residential flat building development is permissible under the site's R3 Medium Density Residential zoning.

The proposed affordable housing in the existing heritage buildings is not subject to assessment against this SEPP as the Clause (b) excludes land that contains a heritage item.

(b) the development is on land that does not contain a heritage item that is identified in an environmental planning instrument, or an interim heritage order or on the State Heritage Register under the Heritage Act 1977.

(2) Despite subclause (1), this Division does not apply to development on land in the Sydney region unless all or part of the development is within an accessible area.

The subject site is located within an accessible area as defined under Clause 4 of the SEPP as it meets criteria (c), being within 400 metres walking distance of a bus stop that has regular services. The site is approximately 115m walking distance from a bus stop on Bondi Road, which is serviced by the 380 and 333 buses which generally run 24 hours. The site is also approximately 800m walking distance from Bondi Junction Transport Interchange which is serviced by regular trains and buses.

Clause 13 Floor space ratios

(1) This clause applies to development to which this Division applies if the percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20 per cent.

(2) The maximum floor space ratio for the development to which this clause applies is the existing maximum floor space ratio for any form of residential accommodation permitted on the land on which the development is to occur, plus:

(a) if the existing maximum floor space ratio is 2.5:1 or less:

(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or

(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent,

where:

AH is the percentage of the gross floor area of the development that is used for affordable housing.

$Y = AH \div 100$

*(3) In this clause, **gross floor area** does not include any car parking (including any area used for car parking)*

In this instance, the whole building is proposed to be used for affordable housing, which proffers an additional 0.5:1 bonus bringing the allowable gross permissible floor area to 1.1:1. The submitted development application proposes an FSR of 0.86:1, which it is consistent with the provisions of this clause.

Clause 14 – Standards that cannot be used to refuse consent

The assessment of this development application should have regard for the criteria for certain matters that cannot be used to refuse consent on the site. These include site area, landscaped area, deep soil zones, solar access, parking and dwelling size. An assessment of this application against these standards has been provided below:

Development Standard	Compliance	Comment
Site area (1)(b) if the site area on which it is proposed to carry out the development is at least 450 m ²	Yes	Lot A & B, 8-10 Council which are subject to assessment against the SEPP has a combined area of 573m ² .
Landscaped area (1)(c) if (ii) in any other case—at least 30 per cent of the site area is to be landscaped,	No	<p>In consideration of the site alone (without consolidation with the adjoining site at 27 Paul Street, the proposed landscaped area is 160m², which equates to 28% of the site area, slightly short of the 30% requirement.</p> <p>When the landscaped area is combined with 27 Paul Street, 527m² of landscaped area is provided which equates to 43% of the total site area.</p> <p>This is not considered a sufficient reason for refusal of the application, as the development will remain to have access to quality open space.</p>
Deep soil zones (1)(d) if, in relation to that part of the site area (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed: (i) there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15 % of the site area (the deep soil zone), and (ii) each area forming part of the deep soil zone has a minimum dimension of 3 metres, and (iii) if practicable, at least two-thirds of the deep soil zone is located at the rear of the site area,	No	<p>Given the basement occupies the majority of 8-10 Council Street, there is limited opportunity for deep soil planting on Lots A and B. An estimated 9% of the site is calculated as deep soil zone.</p> <p>However, when combined with the site to the rear at 27 Paul Street, the site achieves 207m² of deep soil planting which equates to 16% of the combined sites.</p> <p>As noted above, this is not considered a sufficient reason for refusal.</p>
Solar access	Yes	

Development Standard	Compliance	Comment
(1)(e) if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hrs direct sunlight between 9am and 3pm in mid-winter		<p>The required number of apartments within the proposed RFB receive at least 3 hours of direct sunlight at midwinter.</p> <p>The application cannot be refused on this basis.</p>
<p>Parking</p> <p>(2)(a) if</p> <p>(ii) in any other case—at least 0.5 parking spaces are provided for each dwelling containing 1 bedroom, at least 1 parking space is provided for each dwelling containing 2 bedrooms and at least 1.5 parking spaces are provided for each dwelling containing 3 or more bedrooms,</p> <p>The SEPP does not require any car spaces for studio apartments nor references visitor parking requirements.</p>	Yes	<p>Proposed car spaces:</p> <p>2 accessible</p> <p>8 car stacker</p> <p>1 hard stand car space to Paul Street</p> <p>Proposed units;</p> <p>7 studios;</p> <p>2 x 2 bedroom adaptable units</p> <p>Although there is no requirement for studio apartments if you apply the rate for a 1 bedroom unit (for the studios), the following parking is required.</p> <p>0.5x7= 3.5</p> <p>1 x 2= 2</p> <p>10 spaces are provided within the basement car park. Having regard to the SEPP ARH being absent on visitor parking, it is recommended at least 1 visitor space be provided to the RFB (additional car space for heritage building to be provided from Paul Street).</p>
<p>Dwelling size</p> <p>(2)(b) if each dwelling has a gross floor area of at least:</p> <p>(i) 35m² in the case of a bedsitter or studio, or</p> <p>...</p> <p>(iii) 70m² in the case of a dwelling having 2 bedroom</p>	<p>Yes</p> <p>Yes</p>	<p>Each of the studios within the proposed residential flat building are 35m².</p> <p>The 2 x 2 bedroom units are 77m².</p>

Clause 16 Continued application of SEPP 65 and Clause 16A Character of local area

An assessment of the proposal against SEPP 65 has been considered earlier in this report. This clause specifies that a consent authority must not consent to development without considering the compatibility of the design of the building to the character of the surrounding area.

The proposed development was reviewed by the Waverley Design Excellence Panel and Council's Heritage Architect who have raised no issues with regards to the building and in consideration of the

character of the area. The applicant's architect has also submitted a statement to describe how the design of the buildings achieves compliance with this Clause.

Clause 17 Must be used for affordable housing for 10 years

In order to utilise the bonus floor space provisions of the ARHSEPP, the following must be satisfied:

(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:

(a) for 10 years from the date of the issue of the occupation certificate:

(i) the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing, and

(ii) all accommodation that is used for affordable housing will be managed by a registered community housing provider, and

(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) are met.

Although only 9 of the units are proposed as affordable housing under the provision of the SEPP within the new RFB, the proposal provides all units in the proposal (16 units) for the purposes of affordable rental housing. A condition of consent is to be imposed to ensure that the units are used for this purpose.

Part 3 Retention of existing affordable housing

Clause 47 Interpretation

The applicable definitions under Part 3 of the SEPP are as follows:

low-rental residential building means a building used as a residential flat building containing a low-rental dwelling or as a boarding house and includes a building:

(a) that, at the time of lodgment of a development application to which this Part applies, is lawfully used as a residential flat building containing a low-rental dwelling or as a boarding house, irrespective of the purpose for which the building may have been erected, or

(b) that was used as a residential flat building containing a low-rental dwelling or as a boarding house but that use has been changed unlawfully to another use, or

(c) that is vacant, but the last significant use of which was as a residential flat building containing a low-rental dwelling or as a boarding house.

Clause 49 (1)

Clause 49(1) of the SEPP states that:

"this Part applies only to those buildings that were low-rental residential buildings as at 28 January 2000, and does not apply to any building that becomes a low-rental residential building after that date."

The existing buildings at 8-10 Council Street and 27 Paul Street are currently used as boarding houses. According to the previous assessment, Council records indicate that both properties have been used for this purposes for some time prior to January 2000 to today.

Clause 50(1)

Clause 50 (1) of the SEPP requires development consent for any proposal to

(a) demolish the building,

Therefore, Council's consent is required for the proposed development.

Clause 50(2) Assessment

a) whether there is likely to be a reduction in affordable housing on the land to which the application relates

The subject site currently operates as a boarding house. However, it is noted that the proposal is for the demolition of 29 boarding house rooms and the provision of 16 new affordable housing units. As seen below, each of the 29 boarding rooms were leased below the median rent levels of December and September of 2017. This means that there will be a reduction of 13 affordable units as only 16 are being replaced.

Median Rent Level of bedsitters for September and December = \$420

<https://www.facs.nsw.gov.au/resources/statistics/rent-and-sales/dashboard>

Rent Data for 8-10 Council St, Bondi Junction

1/7/17-30/6/18	
Room	Weekly rate
1	\$400
2	\$380
3	\$380
4	\$240
5	\$390
6	\$240
7	\$400
8	\$390
9	\$240
10	\$380
11	\$130
12	\$230
13	\$400
14	\$240
15	\$240
16	\$390
17	\$240
18	\$240
	<u>\$5,550</u>

Rent Data for 27 Paul St, Bondi Junction

1/7/17-30/6/18	
Room	Weekly rate
1	\$240
2	\$380
3	\$400
4	\$240
5	\$400
6	\$240
7	\$380
8	\$390

9	\$240
10	\$380
11	\$240
	<u>\$3,530</u>

b) whether there is available sufficient comparable accommodation to satisfy the demand for such accommodation

The *Affordable Rental Housing SEPP Guidelines* (October 2009) outline that a Sydney vacancy rate of less than 3% is deemed to indicate that insufficient comparable accommodation is available to mitigate the impact of the proposal, and in such an instance, no weight can be given in the assessment of this provision. The Sydney rental vacancy rate is published by the Real Estate Institution of NSW.

The Inner Sydney (includes Waverley, Woollahra, Randwick, etc.) rental vacancy rate as of April 2018 (latest available preceding lodgement) was 2.2%. Given this rate is less than 3%, in accordance with the *Guidelines*, there is insufficient comparable accommodation to satisfy the demand for affordable rental housing.

c) whether the development is likely to cause adverse social and economic effects on the general community

Housing stress is a significant problem within the Waverley LGA, which is characterised by high land costs, decreasing rates of home ownership and increasing rent levels. The rising rental rates exclude low income earners who largely seek low cost accommodation. This then leads to a reduction in social diversity and causes displacement, as people on low to medium incomes are forced to find less expensive rental housing.

The applicant is to provide assistance to existing boarders who may be displaced as a result of the demolition of the existing boarding houses.

d) whether adequate arrangements have been made to assist the residents (if any) of the building are likely to be displaced to find alternative comparable accommodation

The residents are to be notified as far in advance as possible of the proposed closure of the boarding house and where possible, if required, assistance is to be provided to source alternative accommodation.

e) the extent to which the development contributes to any cumulative loss of affordable housing in the local government area

Though the units replacing the existing units are going to be leased as affordable rental housing there is still a loss of 13 units that could have otherwise been rented at an ARH rate. Therefore, this proposal does contribute to a cumulative loss in affordable housing.

f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and compliance of the building with the fire safety requirements

Not applicable.

g) Whether the imposition of a condition requiring the payment of a monetary contribution for the purposes of affordable housing would adequately mitigate the reduction of affordable housing resulting from the development.

As each of the apartments were rented at an affordable rate it is considered that there will be a reduction of 13 affordable housing units. It is considered that a payment of \$595,197 is sufficient to mitigate the loss of affordable housing (this figure is based on the limited detail provided).

h) In the case of a boarding house, the financial viability of the continued use of the boarding house

The financial viability of the continued use of the former boarding is to be assessed using the formula contained in Clause 51(5) of the AHSEPP. The applicant has provided insufficient information for the calculation of this formula.

It is highly important that this information be provided as it determines whether or not a contribution is payable for the development. Therefore, the applicant needs to provide the relevant information outlined in Clause 51(5) of the AHSEPP.

Clause 51 Contributions for affordable housing

Clause 51 of SEPP (Affordable Rental Housing) 2009 sets out the formula to calculate the contributions payable based on the total loss of low rental bedrooms, multiplied by the replacement cost (average value of the first quartile of sales and strata properties in the local government area as specified by the 4 most recent editions of the *Rent and Sales Report*), and then multiplied again by 0.05.

The average replacement (R) value of a dwelling within the Waverley LGA is \$915,688 (as at September 2017).

In this instance the total loss of low rental dwelling bedrooms (L) is identified as 8, and 5% of the replacement cost is a total of \$45,784.40

Based on the calculations listed in clause 51(3) and outlined below, the total contribution amount equates to **\$595,197**.

$$\text{\$595,197} = 13 \times \$915,688 \times 0.05$$

$$C = L \times R \times 0.05$$

NOTE: Under clause 51(4)(a) this contribution cannot be payable if the boarding houses has a rental yield of less than 3%. As the applicant has not provided any information relating to the calculation of the rental yield of the boarding house, it cannot be determined whether or not the yield is below 3% and therefore it is inconclusive as to whether or not a contribution can be sought for this development.

Recommendation

The applicant is to provide further information relating to the rental data of the property as at 28 January 2000. Council must assess the rental history in order to determine whether or not there is a reduction in affordable rental housing and if this requires a contribution payment to mitigate the loss of this affordable housing.

- the gross rental income from the boarding house for a period of time set by the assessing officer.
- the total expenses for the boarding house (excluding expenses that have been charged to lodgers) for the period.
- the capital depreciation of the boarding house for a period of time set by the assessing officer.
- the total value of the boarding house were it to be purchased for the purposes of continuing its use as a boarding house.
- the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements.

This matter can be addressed as deferred commencement condition of consent.

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

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposal does not contravene the aims of the plan.
Part 2 Permitted or prohibited development		
Land Use Table R3 Medium Density Residential Zone	Yes	Residential flat buildings are permitted with consent in the zone.
Part 4 Principal development standards		
4.3 Height of buildings <ul style="list-style-type: none"> 9.5m 	No	The proposal will exceed the 9.5m height limit by 3%.
4.4 Floor space ratio	Yes	<u>Existing Heritage Building - 27 Paul St - Lot 1</u> Permitted FSR: 0.6:1 Permitted GFA: 386.4m ²
<u>Lot 1 (27 Paul):</u> <ul style="list-style-type: none"> Site Area: 644m² Permitted FSR: 0.6:1 <u>Lot A & B (8-10 Council)</u> <ul style="list-style-type: none"> Site Area 573m² Permitted FSR: 0.6:1 plus SEPP bonus 0.5:1 		Proposed GFA: 346m ² Proposed FSR: 0.53:1 – Complies <u>New RFB: 8-10 Council St- Lot A & B</u> Permitted FSR: 0.6:1 + 0.5:1 Bonus Permitted GFA: 630.3m ² Proposed GFA: 493m ² Proposed FSR: 0.86:1 – Complies Recommendations of this report reduces this FSR further to achieve compliance with the DCP wall height control.

Provision	Compliance	Comment
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 development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	Development consent is required for the significant works proposed to the heritage listed dwelling at 27 Paul Street. Council's Heritage Architect has reviewed the proposal and considered this part of the LEP. This is discussed in detail in the consideration of referrals below. Council's Heritage Architect has reviewed the proposal and noted that the proposal is acceptable subject to conditions of consent.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	A Geotechnical Report is requested as a deferred commencement matter to ensure that the development will not have detrimental impacts and meet the considerations of the Clause.

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

Height

The height development standard for the site is 9.5m and the proposal exceeds this height for the proposed building at 8-10 Council Street by 0.35m or 3%. The breach occurs for a portion of the building on the northern side of the building.

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

- The proposed building height to Council Street is three storeys (reduced from a previous submission for 4 storeys) with only a minor breach in the development standard. The proposed development provides an excellent design outcome for the site, by means of minimising the building footprint and allowing for an increase in landscaped areas and communal open space. An increase in separation between the two buildings protects the heritage curtilage of 27 Paul Street and exceeding Councils DCP requirements for communal open space and landscaped areas.*
- There is sufficient separation between the two buildings, which has been achieved through a variation in building height and therefore a reduced building footprint.*
- The proposal is consistent with the built form and height of nearby residential flat buildings on Council and Paul Street and contributes to the desired future character of the area. The development will not visually dominate the streetscape and is a significant opportunity to*

increase the number and quality of affordable housing units in Bondi Junction. Photographs in the Clause 4.6 statement show the existing built form of Council and Paul Street.

- *Strict compliance is unnecessary and sufficient planning justification is provided to support the variation, including:*
 - *The proposal demonstrates design excellence and includes architectural elements which ensure the bulk and scale of the building is not excessive, whilst promoting view sharing and surveillance;*
 - *The proposal does not visually dominate the streetscape and is consistent with nearby residential developments and the desired future character of the area (refer to photographs 1-4 above);*
The development will not contribute to significant view loss, privacy issues or overshadowing for residents located in adjacent properties; and
 - *The design provides good visual and acoustic privacy between units through balcony and courtyard separation and orientation.*
- *There are sufficient Environmental Planning grounds to Justify Contravention of Development Standard. As shown in the information above, there is adequate planning rationalisation provided to justify the variation, including:*
 - *The proposal provides additional housing choice to the community through the provision of studio, 2 bedroom and adaptable units for the purpose of affordable housing;*
 - *The architectural design and reduced building footprint is best practice development for the site, increasing landscaped and communal open space areas;*
 - *The proposal is considered appropriate given the sites proximity to the centre of Bondi Junction;*
 - *The proposal complements nearby developments and the desired future character of the area; and*
 - *The proposed development meets the objectives of Clause 4.3 for the reasons stated above.*

The justification in the applicant's request has addressed subclause (3) of Clause 4.6. Not only must the consent authority be satisfied those matters have been addressed, but whether the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

From a pedestrian perspective the variation to the height control will not be visually obvious from the public domain to appear out of context with the desired character of the street as forecast by the statutory controls for the site. Strict application of the control would have no visual benefit to the streetscape in this regard.

Compared to the 8 storey buildings at 24-32 Council Street, 5 properties to the south and 24-32 and 26-31 Paul Street, the 350mm non-compliance is not considered to be detrimental to the character of the area.

In consideration of impacts, the design of the building does not take into consideration the wall height control in the DCP, which seeks to reduce visual bulk and solar impacts on adjoining properties. The DCP control should be read in conjunction with the LEP control.

In this regard, it is recommended by Council staff that the minor breach to the overall height can be acceptable provided that the building bulk be adjusted to comply with the DCP wall height control, as this non-compliance results in unacceptable impacts to those adjoining properties either side of the site. This is discussed in further detail in consideration of the DCP controls later in this report. The height breach does not result in any unmitigated privacy impacts.

In consideration of the objectives of the zone and the height development standard, the proposal is considered not to be against the objectives and in particular, objective (d) which is *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.*

However, as noted previously, in order to achieve objective (a) *to preserve the environmental amenity of neighbouring properties*, it is recommended that the wall height is adjusted to respond to the DCP controls, as recommended as a condition of consent.

In consideration of the overall breach to the height limit, the majority of the building corresponds with the overall height anticipated by the controls and is in keeping with the emerging development within the vicinity. It is considered that there are sufficient environmental planning grounds to justify contravening the development standard and a variation to the height development standard in this instance would not be against the public interest, provided it is amended in accordance with the conditions of consent, because it is consistent with objectives of the development standard and applicable zone and consistent with other minor height variations in the area. The Clause 4.6 statement is available for the Panel's consideration as the consent authority.

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

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

Table 4: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	The proposal is found to be acceptable with regards to waste management and conditions of consent are recommended.
2. Energy and water conservation	Yes	An amended BASIX certificate was submitted with the proposal which addresses the minimum requirements of this part of the DCP.
5. Tree preservation	Yes	Council's Tree Management Officer has reviewed the proposal and agreed to the removal of some of the trees on the site. Please refer to the referrals section of this report for further discussion.
6. Stormwater	Yes	The original plans prepared by Jones Nicholson Consulting Engineers, Job No. 1701277, DWG No. C001, C100 and C300 (Rev 1) dated 24/04/2017, are considered satisfactory with respect to the stormwater details.
7. Accessibility, adaptable dwellings & Universal Housing Design	Yes	According to the DCP, up to 9 units, the adaptable housing provision does not apply, however the 2 x 2 bedroom units within the new RFB are proposed to be adaptable. 20% of the units are to have a universal design and this matter can be addressed as a condition of consent.

Development Control	Compliance	Comment
<p>8. Transport</p> <p>Parking Zone 1 – High Density Development</p> <p><i>Medium Density Rates</i></p> <p><u>Car parking Rates</u></p> <p>Resident: Heritage Building 0.5 space per studio x 6 1.2 space per 2 bed x 1</p> <p>Visitor: 1 per 5 units</p> <p><u>Bicycle Parking Rates</u> Residents: 1 per unit Visitors: 1 per 10 units</p> <p><u>Motorcycle Parking</u> 3 per 15 car spaces</p> <p><u>Urban Design</u></p>	<p>Yes</p> <p>No</p> <p>Yes</p> <p>N/A</p> <p>Yes (on merit)</p>	<p>The SEPP (Affordable Rental Housing) 2009 dictates the parking rates for the residential flat building which faces Council Street.</p> <p>Below is an assessment of the parking requirements for the units within the heritage building</p> <p>3 spaces 1.2 spaces TOTAL: 4 spaces</p> <p>1 visitor car parking space is required. It is recommended that that hard stand space to Paul Street be designated as a visitor space.</p> <p>16 resident bicycle parking spaces are provided in the basement 1 visitor bike space is required for each building – To be conditioned</p> <p>No motor cycle spaces are required as there are less than 15 car spaces provided</p> <p>The basement car park is not wholly under the building footprint, but can be suitably integrated with landscaping to soften the impact to the streetscape and adjoining properties.</p>
10. Safety	Yes	The proposal is considered acceptable in relation to the principles of designing for safety, providing casual surveillance to the street and rear common area.

Table 5: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table

Development Control	Compliance	Comment
2.2 Site, scale and frontage		
<ul style="list-style-type: none"> Minimum frontage: 15m (R3 Zone) 	Yes	The proposed RFB has a 15m frontage to Council Street.
2.3 Height		
<ul style="list-style-type: none"> Maximum external wall height: 7m 	No	The proposed new building does not comply with the 7m wall height control. This matter is discussed below.
2.4 Excavation		
<ul style="list-style-type: none"> No fill to raise levels 	Yes	No fill is proposed.
<ul style="list-style-type: none"> Minimum setback of 1.5m from side boundaries 	No	The excavation for the new RFB is proposed to the site boundaries and exceeds the footprint of the building. A detailed geotechnical report
<ul style="list-style-type: none"> Under building footprint except main access ramp 	No	

Development Control	Compliance	Comment
		is required as a deferred commencement condition of consent.
2.5 Setbacks		
2.5.1 Street setbacks <ul style="list-style-type: none"> Consistent street setback 	Yes	The proposed new building, as amended has an acceptable street setback.
2.5.2 Side and rear setbacks <ul style="list-style-type: none"> Minimum side setback: 3m Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback Deep soil along one side boundary min 2m wide 	Yes No No	The development provides 3m setbacks to the side boundaries. The rear setback due to the bulky balconies does not align with the adjoining properties and plan amendments are suggested. Given the extent of the basement below, the proposal does not provide 2m of deep soil planting on either side boundaries. Deep soil planting however is proposed in the common open space area and this is acceptable.
2.6 Length and depth of buildings		
<ul style="list-style-type: none"> Maximum building length: 24m Maximum unit depth: 18m 	Yes Yes	The building is has a length of 8.4m to the street frontage. No unit is deeper than 18m, averaging 9m.
2.7 Building Separation		
2.6 Building Separation Up to 4 storeys – 12m, 9m 6m depending on rooms.	Yes	This is discussed in the consideration of the ADG above. The heritage building has the same separation to the adjoining buildings to the side as the existing.
2.8 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes 	Yes Yes	The Design Excellence Panel have reviewed the proposal and raised no concerns in relation to aesthetics. Council's Heritage Architect notes that the finishes on both buildings can be improved and a condition of consent is recommended requiring further refinement as a condition of consent.
2.10 Fences and walls		
<i>Front fence:</i> <ul style="list-style-type: none"> Maximum height 1.2m Maximum 2/3 solid <i>Side and rear fencing:</i> <ul style="list-style-type: none"> Maximum height: 1.8m 	Yes Yes	A front fence is proposed to the street to enclose the courtyard of the ground floor unit. The fence design is partially open, and provided that it is limited to 1.8m to the Council Street elevation, is acceptable, given the majority of the site will remain open. A condition is recommended to restore the palisade fence to the Heritage building. It is not clear whether new boundary fencing is proposed as it is shown in the 3D views, but not noted on the plans. A condition is imposed which requires the applicant to replace the side boundary fencing as a part of the works to be 1.8m high.

Development Control	Compliance	Comment
2.11 Vehicular access and parking		
<ul style="list-style-type: none">Integrated into the design	Yes	The driveway to the basement is integrated into the design of the building and has a 2 way driveway which is acceptable to the RMS. The pedestrian entry is separate and secondary to the residential lobby and entrance to ensure pedestrian safety.
<ul style="list-style-type: none">Secondary to pedestrian entrance	Yes	
<ul style="list-style-type: none">Maximum of 1 x 2-way driveway	Yes	
<ul style="list-style-type: none">Pedestrian safety	Yes	
2.12 Pedestrian access and entry		
<ul style="list-style-type: none">Entry at street levelAccessible entryLegible, safe, well-lit	Yes	The pedestrian entry to the building is located at the southern side of the building delineated by a pathway, gate and letterboxes so it is legible from the street. Conditions are to be imposed to ensure that it is accessible and have appropriate lighting for safety, as well as additional landscaping along the southern boundary as a visual improvement and buffer to the adjoining southern property (No 12).
2.13 Landscaping		
<ul style="list-style-type: none">Minimum of 30% of site area landscaped	Yes	The landscaped area around the heritage building site is approximately 40%. 50% of that area can accommodate deep soil area. An updated landscaping plan will be requested as a condition of consent.
<ul style="list-style-type: none">50% of the above is to be deep soil	Yes	
2.14 Communal open space		
<ul style="list-style-type: none">Min 15% communal (R3 zone):	Yes	The applicant states that 527m ² (43%) of communal open space is proposed at ground level for the use of residents at both the Paul Street and Council Street. The area will receive sunlight and is accessible. This meets the requirements for both the DCP and ADG for the heritage building and the new RFB. The implications for sharing this communal open space area is discussed below.
<ul style="list-style-type: none">Minimum dimensions: 6m x 6m	Yes	
<ul style="list-style-type: none">Minimum of 30% of communal area must receive 3 hrs of sunlight	Yes	
<ul style="list-style-type: none">Accessible		
2.15 Private Open Space		
<ul style="list-style-type: none">75% of dwellings shall provide private open spaceBe north facingAccessible from main living areaBalconies (2.5m wide & 10m²)Courtyards 25m²	No	<ul style="list-style-type: none">The private balconies in the new RFB meet the ADG controls.5 of the 7 of the units within the heritage building have access to private open space, equating to 71% of the building. Not all the balconies and courtyards meet the minimum sizes in the DCP, however given the heritage constraints of the building, the private areas maintain meet the objectives of the controls and are considered appropriate given the adaptive re-use of the building.
2.16 Solar access and overshadowing		
<ul style="list-style-type: none">Minimum of three hours of sunlight to a minimum of 70% of units during winter solstice	Yes	The new RFB has been assessed in table 2 relating to the ADG above. Five (5) of the 7 units within the heritage building receive at least 3 hours of direct sunlight at midwinter.

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Direct sunlight to north facing windows of habitable rooms and private open space areas of adjacent dwellings should not be reduced to less than 3 hours at mid- winter. 	No	The new RFB will overshadow the northern windows of the adjoining semi- detached dwelling to the south and backyard area. The removal of the existing brick building at the rear of the heritage building near the southern boundary will reduce shadow impacts, however recommendations are made in the discussion below to improve solar and amenity impacts to the southern property.
2.17 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss 	Yes	The proposal does not interrupt views from public areas, and any view loss from surrounding properties would not be unreasonable, given the building predominantly complies with the overall height limit (apart from the slight variation to the height limit). There are 3 taller buildings within the vicinity which will continue to look over the building to any views.
2.18 Visual privacy and security		
<ul style="list-style-type: none"> Prevent overlooking of more than 50% of private open space of lower level dwellings in same development Minimise overlooking of adjoining properties 	Yes	The heritage building has limited openings in the side elevations of the building to prevent overlooking. The new balconies proposed on the rear of section of the heritage building are enclosed at the side to prevent looking over the side boundaries. Privacy and overlooking for the new RFB has been assessed in the consideration of the Apartment Design Guide.
2.19 Apartment Size and Layout		
Studio – 35m ² 2 bedroom – 80m ²	No	One of the studio units at the front, ground floor level of the building in the heritage house does not meet the minimum size for a studio, being 31m ² . The non-compliance is considered minor and the studio will still be of an acceptable quality. The RFB units comply with the ADG.
2.20 Ceiling Heights		
<ul style="list-style-type: none"> 2.7m for residential 	Yes	The heritage building has floor to ceiling heights greater than 2.7m.
2.21 Storage		
<ul style="list-style-type: none"> Studio & 1 bedroom units- 6m³ 2 bedroom units – 8m² 	Yes	Storage is shared between the units and in the basement car park. A condition of consent is recommended to ensure that adequate storage is provided.
2.22 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	Plumbing is co-located vertically within the building and away from common walls. In addition bedrooms are located away from common walls which achieves the objectives of the control. A condition is recommended regarding sound transmission between units.

2.23 Natural Ventilation		
<ul style="list-style-type: none"> 60% apartments to be cross ventilated 		The new RFB complies with the ADG requirements. The proposed units within the heritage building all have cross ventilation
2.24 Building services		
<ul style="list-style-type: none"> Must have a minimum of 2m setback from the building edge 	Yes	There are no services proposed on the roof, only solar cells.
<ul style="list-style-type: none"> Mail boxes provided 	Yes	Mail boxes are to be provided in the lobby area
<ul style="list-style-type: none"> Services integrated into the building 	Yes	Plant is provided in the basement area

Discussion

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

Wall height and overshadowing

The proposal predominantly complies with the overall LEP height control, and has been adequately justified in the consideration of Clause 4.6 earlier in this report, but does not comply with the wall height control in the DCP.

The DCP states that where it is proposed to build beyond the 7m height control, it must be justified by the applicant that the wall height is appropriate, giving regard to other development controls, visual bulk and scale, amenity impacts, as well as high quality design. The wall height averages at 9.3m at the southern side of the building which is 2.3m over the wall height control.

The applicant has failed to provide any justification for the non-compliance with the wall height control. In consideration of amenity impacts, the most affected by the non-compliant wall height is the adjoining semi-detached dwelling to the south of the site at 12 Council Street. The shadow analysis provided by the applicant demonstrates that the proposal will result in additional overshadowing to the living room window on the northern elevation of that building at ground floor, as well as additional shadowing to the backyard.

Without any justification provided by the applicant, strict compliance with the wall height control is considered appropriate. In order to improve overshadowing and visual bulk impacts to the adjoining southern semi-detached property, it is recommended that the upper level (ie. 2nd level) of the rear portion of the proposed building (ie. to the eastern side of the lift core) be setback from the sides of the building by at least 1m on each side and from the rear wall to setback the upper level and meet the 7m wall height control. This will result in the loss of one studio unit (and a reduction in the overall GFA of the building), but will result in a lower wall height and provide visual relief to the rear yard of the northern adjoining building and provide both visual and solar improvements to the adjoining southern building and reflect compliance with the wall height control.

The R3 zoning of the land with a statutory 9.5m height limit anticipates a 3 storey building, and from an urban design perspective when the proposed building is viewed at the front, the 3 storey wall height is not considered to be detrimental to the scale of the building in the streetscape, therefore it is only considered that the wall height be reduced for the eastern half of the building behind the lift core to alleviate amenity impacts to the immediate adjoining properties. This matter is addressed by a condition of consent.

With the building re-designed to have a 7m wall height for the rear portion of the building, it is considered to achieve the objectives of the wall height control and would not cause additional unacceptable overshadowing that is not anticipated by the controls, or unmitigated privacy impacts to warrant refusal of the application on those grounds.

Rear setback

The rear setback of the new building was raised as an issue when the application was deferred for amendments. The DCP control states that new buildings and extensions to existing buildings are to provide a minimum 6m rear setback, or extend no further to the rear than the predominant rear building line, whichever is the greater setback. In this case, aligning with the adjoining properties would provide the greater setback.

Whilst the rear setback was adjusted in the amended plans, the bulk of the building appears to extend further past the rear of the two adjoining buildings. This is evident on the proposed roof plan. The non-compliance is a result of the proposed balconies being architecturally incorporated into the bulk of the building with solid walls and roof over, giving the impression that the building extends further towards the rear building. It is therefore recommended that the balconies be amended to be of a light weight design with lightweight (such as timber) privacy screens to reduce the bulk and scale of the building, and reduce the shadow cast to the south.

Common Open Space

The landscaping and common open space areas has been proposed in this application to be shared by the heritage building and proposed new building, rather than divided for each site.

The SEPP (Affordable Rental Housing) 2009 excludes the site at 27 Paul Street (Lot 1) from the enabling controls under Part 2 Division 1 of the SEPP which provides a floor space bonus for developments which provide affordable housing for 10 years. Despite the heritage house at 27 Paul Street being excluded from the provisions in the SEPP, the accommodation is proposed as affordable housing.

The FSR bonus therefore has only been applied to the proposed RFB on Lot 1, as the SEPP allows. The proposed RFB on Lots A and B facing Council Street however does not have sufficient space for common open space and proposes to utilise the space in between the existing and proposed building.

Additionally, the basement car park underneath the new residential flat building is proposed to accommodate car parking for the units within the heritage building. Therefore both buildings rely on facilities provided on each of allotment to provide compliant car parking and private open space. This application does not propose to subdivide the property.

It is considered reasonable to allow for this arrangement, provided that the allotments are consolidated prior to the issue of an occupation certificate and that the car parking is allocated through by-laws accordingly. This arrangement is considered to be a sensible use of the combined sites to provide a better planning outcome.

The landscaping plan submitted with the amended application does not align with the amended scheme and therefore cannot be used as an approved landscaping document. In addition, the landscaping plan indicates pergola structures which have not been included in the architectural plans and cannot be assessed. This matter can be addressed as a condition of consent.

It is considered that the proposal will meet the objectives of the DCP controls which are to provide areas of high design quality, a positive street and identity for the development, space for recreational opportunities as well as a pleasant outlook for development.

Heritage Building DCP non-compliances

An assessment of the proposed units within the heritage building revealed some non-compliances with units 1 and 4 .

Unit 4 is located at the front of the building and is 31m² which is 4m² short of the 35m² requirement. The non-compliance is considered nominal and given that the heritage qualities of the room will be restored, is considered an acceptable variation in this circumstance. The remaining units are proposed to be adapted in a manner that will achieve the minimum unit sizes.

These front 2 units, Unit 1 and Unit 1 do not have access to private open space. There is an opportunity to privatise some of the open space in the side setback areas between the boundaries, however Council does not support new openings in the side walls to ensure that the main fabric of the dwelling remains. A variation to the private open space control for these two units is acceptable to vary in this case, given that to the rear of the site there is sufficient common open space and access to Waverley Park across the road. The front rooms of the heritage dwelling are important to retain and the variations sought above, are acceptable given that there will be a positive heritage outcome.

Similarly, the private open space proposed for the rear units at ground and first floor level, don't meet the minimum dimensions in the Waverley DCP, however to re-iterate above, finding the appropriate balance between the heritage retention of the building and amenity of each unit is a merit based process and has been supported by Council's Heritage Architect. The private open space provided for the units are acceptable in the circumstances and remain to meet the objectives of the controls.

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

The proposed development is capable of complying with the BCA.

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

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

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

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

The application was originally notified on 2 June 2017 for 21 days and a site notice erected on the site, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. 44 submissions were received to the original proposal.

The amended plans were re-notified for 21 days from 1st February 2018 and 23 submissions were received to the amended plans.

The properties which lodged a submission (to either or both notification periods) are listed below. The issues raised in the submissions to the amended plans are summarised and discussed below.

Table 6: Summary of property addresses that lodged a submission

9 Council Street
27/33-37 Ocean St

39 Bondi Rd
PO BOX 609
9/37-43 Paul St
216 Oxford Street
5/29 Paul St
5/29 Paul St
25/29 Paul Street
100 Bondi Road
21 Watson Street
30/29-31 Paul Street
37 Paul Street
Penkivil Precinct, 2 Woodstock Street
21/37 Paul Street
29-31 Paul Street
10/37 Paul Street
14 Council Street
4/29-31 Paul Street
14/37 Paul Street
31/29-31 Paul Street
29 Paul Street
4/17 Bondi Road
4/6 Council Street
25 Dalley Street
23/29 Paul Street
28/37 Paul Street
4/27 Dalley Street
5/29-31 Paul Street
25 Paul Street
34 Paul Street
3/37 Paul Street
9 Council Street
40/29-31 Paul Street
19/37 Paul Street
31 Bondi Road
1/29 Paul Sreet
37 Paul Street
29 Paul Street
25 Paul Street
12/29 Paul Street
3/27 Dalley Street
37/37 Paul Street
Suite 35, 29-31 Paul Street
17/37 Paul Street
12 Council Street
29-31 Paul Street
32/37 Paul Street
5/25 Dalley Street
29-31 Paul Street
29-31 Paul Street
35 Paul Street
12 Council Street

Issue: Parking violations, congestion in Paul Street and lack of visitor parking

Response: Parking is proposed in the basement with access to Council Street. The proposal complies with the minimum requirements in the SEPP (Affordable Rental Housing) 2009 for the new building and the DCP rates for the existing heritage building. The conditions of consent recommended that the 11 parking spaces within the basement be allocated accordingly.

- 4 residential parking spaces for the units within the Heritage Building;
- 5 residential parking spaces for the units in the new building facing Council Street;
- 2 visitor parking space is to be provided (1 in basement and 1 in the existing hard stand car parking space to Paul Street).

Issue: Noise issues from common open space and open stair to heritage building

Response: There are 2 units proposed in the upper level of the building which will utilise the open stair at the rear of the heritage building. The other unit at first floor is accessed from the front door of the building through the existing building. The use of this stair proposed with the additions to the rear of the heritage building is not considered to result in excessive noise to have an adverse impact on the adjoining buildings. Landscaping is proposed on the side boundaries and new fencing to mitigate noise between properties from the common open space area.

Concerns were also raised regarding noise to the new building from the road and traffic. A condition of consent is recommended to address this.

Issue: Antisocial behaviour, dumping of rubbish and vandalism

Response: Objectors to this application raise issues associated with the current operation of the site as boarding houses. If this application is approved, the current boarders will be required to vacate and once construction complete, the building will be available for rental accommodation with a requirement that it be provided at a rental rate deemed to be affordable by the State Government Guidance. This application is not for short term rental accommodation which may attract a demographic which may engage in anti-social behaviour. In any case, this is not a matter which the consent authority can justify to refuse the application.

Issue: Impact of concentrated renters

Response: There is no requirement for a residential flat building to be strata subdivided for individual sale and this is not a matter which would warrant refusal of the application.

Issue: Light spill

Response: A condition of consent is recommended to ensure that light spill is not offensive.

Issue: Tree Removal

Response: Council's Tree Management Officer has reviewed the arboriculture report submitted with the application and agrees with the recommendations. Conditions of consent are recommended in this regard.

Issue: Visual Privacy Impacts including impacts from rear balconies, low fences

Response: Privacy screening is proposed on the side of all balconies and privacy screening on the windows on the side elevations of the new building. There are also conditions of consent recommended with regard to landscaping and fencing.

Issue: Traffic

Response: Council's Manager of Traffic and Development has raised no issues to the proposal, subject to conditions of consent. Additionally the Roads and Maritime Services have reviewed the proposal and provided their concurrence, subject to plan amendments related to the driveway access which have been incorporated into the plans, as well as conditions of consent.

Issue: Clarification of boundary fencing

Response: A condition is recommended which requires new boundary fencing.

Issue: Odour from smoke and BBQ in common area

Response: Smells from the use of BBQs in a domestic manner is not a sufficient reason for refusal of the application.

Issue: Queries regarding the use of the building after the 10 year affordable housing period

Response: The SEPP only requires that the accommodation be provided as affordable housing for a period of 10 years. The state wide policy provides an incentive for developers to provide affordable housing in an area to provide housing stock for affordable housing providers and those in need of lower cost housing.

Issue: DCP non compliances

Response: The DCP non-compliances have been considered and discussed in this report where relevant.

Issue: Lack of apartment mix

Response: The SEPP does not require a particular apartment mix for the new infill affordable housing. Studio and 2 bedroom units are provided within the development which does provide different housing choices. There is insufficient justification to refuse the application on the basis that 1 bedroom units have not been provided within the development.

Issue: Concerns regarding the use of the building as backpacker or tourist accommodation

Response: The application does not propose backpacker or tourist accommodation. This matter can be re-iterated as a condition of consent.

Issue: Request for geotechnical information for adjoining properties

Response: Conditions of consent are recommended in this regard, including the requirement for dilapidation reports to the adjoining properties within the zone of influence of any bulk excavation.

Issue: Request for a Plan of Management and CCTV in common open space area

Response: The application is for rental housing units, not for backpackers, a boarding house or tourist accommodation which would require a plan of management.

Issue: Objection to the amalgamation of the sites

Response: The sites are required to be amalgamated to ensure that there is adequate common open space and parking for both buildings and to ensure that the heritage works to the building are completed.

Issue: Limit to the number of persons to reside in each apartment

Response: The proposal is not for short term accommodation. Should there be evidence of overcrowding and use of a unit for backpacker style accommodation, this can be investigated by Council's Compliance Department and appropriate action undertaken if required.

Issue: Description of the application

Response: The submitter noted that the application wasn't adequately described. The description of the proposal was modified where appropriate and notified to convey the proposal which is for 16 affordable housing units, within a new residential flat building at 8-10 Council Street and within the existing building at 27 Paul Street. As evidenced by the submissions received, Council is satisfied that the description of the proposal was notified appropriately.

Issue: Noise during construction

Response: Conditions of consent are recommended in this regard, including a noise management plan to be submitted to Council's Environmental Health team to review prior to any construction works commencing to ensure that the amenity of the adjoining properties is taken into consideration through the construction process.

Issue: Location of air conditioning units

Response: Air conditioning units are not annotated on the plans, but appear on the balconies of the development. A condition is to be imposed to ensure that mechanical plant, such as air conditioning units are incorporated into the design of the building, and not fitted on balconies or the roof to preserve the amenity of the area.

Issue: Request for 27 Paul Street to remain as a boarding house

Response: This view is contrary to other objectors to the application who have issues with the current use and anti-social behaviour associated with the boarding house accommodation.

Issue: Apartment sizes & layouts

Response: This matter has been discussed within this report. The ground floor apartments are considered to have acceptable amenity.

Issue: Concerns regarding the use as Affordable Housing and quality of proposed building

Response: Conditions of consent are recommended to ensure that the housing is managed by a Registered housing provider for a households identified to be on low to moderate incomes and of an acceptable quality.

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

It is considered that the proposal is in the public interest, providing affordable housing to the area.

3. OTHER REFERRALS

3.1 Heritage Architect – Shaping Waverley

The site located to the western side of Paul Street and is occupied by a freestanding two storey Victorian Italianate residence to Paul Street which is listed as an item of local heritage significance in Waverley LEP 2012. The residence fronting Council Street has a later 20th Century verandah applied to the street frontage but retains original form and detail.

The application proposes demolition of the existing Council Street building and construction of a 3 level residential flat building fronting Council Street together with demolition of the rear areas of the listed building at 27 Paul Street and construction of new internal divisions and new rear additions to the listed building.

Comments and Recommendations:

A competent heritage impact report has been provided. This identifies the extensive original detailing remaining in the residence at 27 Paul Street. The heritage report states original details are to be retained. This needs to be supported in schedules of internal work accompanying the submission.

The amended drawings retain the room configuration and fire place locations of the main front and centre rooms to the residence at 27 Paul Street. Further restoration of these areas is required to balance the removal of fabric from the rear areas of the building. Given the extent of original fabric proposed to be removed from the rear areas of the building it is essential that the original form, layouts and internal details together with external detail and form are retained and exposed in a restored state within the adaptive reuse of the residence.

Adaptation in conjunction with restoration and conservation of original material has regularly been provided in comparable developments and there can be no argument that this is not feasible. The proposed treatment of the exterior to the existing building at 27 Paul Street is not supported. Again the extent of original fabric proposed to be removed from the rear areas of the building can only be justified by detailed restoration of the core areas of the building including exterior and interior detailing.

- *Identification of conservation works is vague and needs to be accompanied by room schedules listing existing original fabric and conservation works proposed to maintain all such details and finishes.*
- *These are to include all original joinery, plaster mouldings, fireplace surrounds and inserts, floor tiling, stair balustrades, doors and leadlight glazing.*
- *External details including verandah joinery, windows, doors, balustrades, eaves, gable infills, palisade fencing and gates are to reinstated based upon available evidence on site and in Waverley Library and other repositories of historic detailing and imagery.*
- *The existing street front palisade fence to Paul Street is to be conserved and restored including the provision of matching gates to pedestrian and vehicle entries.*
- *Site landscaping to the eastern [front] yard is to be detailed in form and species reflecting late Victorian landscaping which is well documented in reference sources.*
- *External paint colours are to be based upon original colours following investigation of historic paint finishes to the building.*
- *External lighting and any signage is to be discreet and appropriate to the style of the building.*
- *Landscaping between the new and existing buildings on the site is to provide a substantial screen between the new and existing buildings*

These matters can be addressed as a condition of consent, including a legal Deed of Agreement which requires the heritage works to be completed. A schedule of heritage conservation works and management plan and updated schedule of finishes are requested as conditions.

3.2 Traffic, Parking and Driveways– Creating Waverley

Council's Manager of Traffic and Development has examined the proposal and no objections are raised to the proposed development on traffic and parking grounds. It is recommended the application be approved subject to the conditions recommended by the RMS, as well as other special and standard conditions.

3.3 Fire Safety- Building Waverley

Council's Senior Building Surveyor has reviewed the application with regard to the works to the existing boarding house and has recommended that pursuant to Clause 94 of the Environmental Planning and Assessment Regulations 2000, it is considered reasonable that in addition to all new works fully complying with the BCA, that the existing portions of the building that are the subject of this application, be brought into totally conformity of Part C, D, E and F of the BCA.

It is the responsibility of the Certifying Authority and PCA to ensure that all works comply with the BCA. Conditions of consent have been recommended in this regard.

3.4 Stormwater – Creating Waverley

The stormwater plans prepared by Green Arrow, Project No. 216-1575, Drawing No. H-01 to H-07 (Rev B), dated 26 October 2017 are considered satisfactory with respect to the stormwater details. Conditions of consent are recommended in this regard.

3.5 Tree Management Officer – Clean and Attractive Waverley

Council's Tree Management Plans has reviewed the landscaping plans submitted within the original scheme and was satisfied with the landscape plan prepared by Taylor Brammer submitted on 18 May 2017.

However the amended landscaping plan submitted on 18 January 2018 does not accurately reflect the modified building footprint of the amended architectural plans. Should the application be approved, a condition is to be imposed which requires an amended landscape plan to correspond with the approved development.

The Arboriculture Impact Assessment Report prepared by Alexis Anderson Bluegum Tree Care consultancy dated March 2017 is satisfactory and is accepted as the approved arborist report. The consent authority cannot permit the removal or pruning of trees on adjoining properties without that owner's permission.

4. SUMMARY

The application proposes residential accommodation to provide affordable housing. The development utilises an existing heritage building and proposes to restore the heritage qualities of the building as a part of the application. The new residential flat building proposes to Council Street will provide basement parking for both the unit within that new building and the units to be created within the existing building. Common open space between the buildings is proposed to be shared.

The proposal has been amended from the original scheme reducing the scale and size of the proposed new building from 4 storeys to 3 storeys to Council Street with greater front, side and rear setbacks. Overall the scheme has been modified from 28 affordable housing units with 3 parking spaces to 16 unit affordable housing units with 11 parking spaces and is in keeping with the desired character of the area set by the statutory controls.

Neither building will exceed the maximum FSR permitted under the respective environmental planning instruments and therefore is not considered an overdevelopment of the site. Indeed due to the site constraints, the new RFB does not achieve the full bonus GFA afforded under the SEPP as an incentive for developers to provide affordable housing.

The overall height of the new RFB will exceed the height limit slightly, but provided that the wall height is reduced to comply with the DCP and provide some visual and solar improvements to the adjoining buildings, is considered satisfy the considerations of Clause 4.6. The Waverley Design Excellence Panel and Council's Heritage Architect has supported the application on design grounds.

The matters raised in the submissions during the notification period have been carefully considered and where possible, recommendations made in this report related to the use of the buildings (not for tourist or backpacker accommodation), fencing, the wall height of the new building (to address solar and visual bulk) and landscaping requirements seek to address these issues.

In principle the scheme is considered worthy of support, however there are some matters which require to be addressed prior to a development consent is active, therefore it is recommended that a deferred commencement consent is issued.

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:

Assessment and Report prepared by:

Jo Zancanaro and Beth Matlawski
Senior Development Assessment Planners

Date: 4 July 2018

Report reviewed by:

Angela Rossi
Manager, Development Assessment
(Reviewed and agreed on behalf of the
Development and Building Unit)

Date: 5 July 2018

APPENDIX A: DEFERRED COMMENCEMENT CONSENT

Waverley Council must be satisfied as to the following matters before the consent can operate.

Deferred commencement consent is granted in accordance with the provisions of section 4.16(3) of the *Environmental Planning and Assessment Act 1979*. The consent is not to operate until the applicant has satisfied Council as to the following matters before the consent can operate:

1. The applicant is to provide further information relating to the rental data of the property as at 28 January 2000. Council must assess the rental history in order to determine whether or not there is a reduction in affordable rental housing and if this requires a contribution payment to mitigate the loss of this affordable housing in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

The applicant is also to provide statistics for the calculation of the financial viability of the continued use of the boarding house, as outlined below.

- a) the gross rental income from the boarding house for a period of time set by the assessing officer.
- b) the total expenses for the boarding house (excluding expenses that have been charged to lodgers) for the period.
- c) the capital depreciation of the boarding house for a period of time set by the assessing officer.
- d) the total value of the boarding house were it to be purchased for the purposes of continuing its use as a boarding house.
- e) the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements.

This information is to be provided to Waverley Council to determine whether the applicant must pay an affordable housing contribution under CI51(4) of the ARHSEPP. If a fee is required, it must be paid prior to the issue of a Construction Certificate.

2. A geotechnical report prepared by a suitably qualified expert is to be submitted which assesses the existing site conditions, the proposed works and stability of the subject site. The report must make recommendations to ensure that the stability of the adjoining sites will not be compromised a result of the proposed bulk excavation, driven type piles and shoring works.

This development consent does not operate until the applicant satisfies Waverley Council, in accordance with the regulations, as to the matters specified in the above conditions and Waverley Council confirms such satisfaction in writing.

The applicant has 12 months to obtain approval of the amended plans and additional information required by the deferred commencement matters in order to activate the consent.

Upon satisfying the consent authority as to the matters contained in Appendix A, the following conditions shall apply:

APPENDIX B – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED DEVELOPMENT

The development must be in accordance with:

(a) Architectural Plans prepared by Nordon - Jago Architects

Drawing Number and Description	Revision and Date	Received Date
DA.05 Site Context Analysis	Revision C - 9/11/17	18/1/18
DA.06 Site Analysis	Revision C – 9/11/17	18/1/18
DA.030 Demolition Plan	Revision C – 9/11/17	18/1/18
DA.100 Ground Floor and Basement	Revision F – 5/1/18	3/7/18
DA.101 First and Second Floor	Revision F- 5/1/18	3/7/18
DA.102 Proposed Roof Plan	Revision E – 5/1/18	18/1/18
DA.200 Section	Revision E – 5/1/18	18/1/18
DA.300 Elevations	Revision E – 5/1/18	18/1/18
DA.301 Elevations	Revision E – 5/1/18	18/1/18
DA.400 Ramp Plan and Section	Revision C – 9/11/17	18/1/18

(b) Arboricultural Impact Assessment Report prepared by Alexis Anderson Bluegum tree care consultancy, date March 2017 and received by Council on 18 May 2017;

(c) Stormwater Plans, prepared by Jones Nicholson Consulting Engineers, Job No. 1701277, DWG No. C001, C100 and C300 (Rev 1) dated 24/04/2017;

(d) BASIX Certificate; and

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

Except where amended by the following conditions of consent.

NOTE – Plan references above may change following satisfaction of the deferred commencement matter. Should this occur, condition 1 will be updated to reflect the new documentation.

2. GENERAL MODIFICATIONS

The proposal shall be amended as follows:

(a) To address amenity impacts, the windows on the southern elevation of unit 8 of the proposed 8-10 Council Street residential flat building are to be translucently glazed to address privacy;

(b) The window operation of all windows are to be noted on the plans to demonstrate compliance with the cross ventilation drawings;

- (c) In order to comply with the DCP wall height control in Part C2 of the Waverley DCP 2012 and improve overshadowing and visual bulk impacts to the adjoining properties, the portion of the 2nd level (top level) of the 8-10 Council Street residential flat building that is located to the east of the lift core (units 15 and 16) is to be setback from the both sides and the rear elevation of the building (that is, the north, east and south sides) by at least 1m on each side to meet the 7m DCP wall height control. The resultant setback area shall be non trafficable.

This may result in the loss of one studio unit if the minimum unit sizes cannot be achieved to comply with the ADG.

- (d) The rear balconies of the 8-10 Council Street residential flat building are to be amended to delete the blade walls on either side and instead provide a light weight design with lightweight material (such as timber) privacy screens to reduce the bulk and scale of the building, and improve solar access to the south;
- (e) The landscape planter strip along the southern boundary of 8-10 Council Street shall be extended from entry lobby (of residential flat building) to the front pedestrian entry at the front (western) boundary to provide an acoustic and visual buffer between the primary entry to the residential flat building and the adjoining property at 12 Council Street.
- (f) The front fence to 27 Paul Street shall be maintained as existing and restored to original state.
- (g) An amended BASIX Certificate is to be submitted having regard to the approved scheme;

The amendments are to be approved by Council prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

3. APPROVED DESIGN - RESIDENTIAL FLAT DEVELOPMENT

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

4. DOMESTIC HEATERS AND AIR CONDITIONING

- (a) The provision of solid fuel heating/cooking appliances is not permitted.
- (b) Any air conditioning unit(s) installed on the site shall:
- (i) Air conditioning plant is not permitted to be installed on any balcony or the roof of either building within this development. Air conditioning is to be installed within the basement car park.
 - (ii) Not emit noise that is audible within a habitable room in any other residential property (regardless of whether any door or window to that room is open):
 - i. before 8.00am and after 10.00pm on any Saturday, Sunday or public holiday;
 - or
 - ii. before 7.00am and after 10.00pm on any other day.
 - (iii) Not provide noise emissions that exceed 5dBA above the ambient background noise level measured at the property boundary at any other time outside of (d).
- (c) No plant or services are permitted to be installed on the roof without the separate consent of Council.

5. USE OF THE LAND

This application does not authorise the use of these sites as backpacker or tourist accommodation. No exclusive use of common property (other than for approved storage) shall occur without the prior consent of Council.

6. SEPARATE APPLICATION FOR SIGNAGE

Any proposed advertising structures to be displayed at the premises are to be subject to a separate development application to and approval from Council unless signage is classified 'exempt' or 'complying' development under the relevant provisions of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

7. AFFORDABLE HOUSING

The following condition is imposed in accordance with Clause 17 of *State Environmental Planning Policy (Affordable Rental Housing) 2009*:

For 10 years from the date of the issue of any occupation certificate:

- (a) All the dwellings within this development must be used for the purposes of affordable housing, and
- (b) All accommodation that is used for affordable housing will be managed by a registered community housing provider, and
- (c) A restriction will be registered, before the date of the issue of any Occupation Certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that the requirements of paragraph (a) and (b) are met.
- (d) The cost of preparation and registration of any legal agreement(s) and all other documentation is to be met by the Registered Proprietor.

8. NEW BOUNDARY FENCING

New northern and southern boundary fencing is to be provided for the full extent of the site's boundaries and the cost shall be wholly borne by the developer/owner and shall be 1.8m high when measured from the existing ground level of the adjoining properties to ensure visual and acoustic privacy between the properties. The fencing is to be lapped and capped timber fencing, unless otherwise agreed by the adjoining property owner.

The 1.8m boundary fences are not to be constructed on top of retaining walls to avoid excessively high structures on boundaries. To clarify, the overall height of a fence and retaining wall must not exceed 1.8m from the existing ground level of the adjoining property.

The fencing must be erected and completed prior to the issue of any Occupation Certificate.

9. EXISTING BOARDING HOUSE RESIDENTS

The current boarding house residents are to be notified as far in advance as possible of the proposed closure of the boarding house (at least 3 months' notice) and where possible, if required, assistance is to be provided to source alternative accommodation.

B. COMPLIANCE PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. SECTION 7.12 CONTRIBUTION

A cash contribution is payable to Waverley Council pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* and Waverley Council Development Contributions Plan 2006 in accordance with the following:

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to council:

- (1) Where the total development cost is less than \$500,000:

"Waverley Council Cost Summary Report"; or,

- (2) Where the total development cost is \$500,000 or more:

"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports may be obtained from Waverley Council Customer Service Centre or downloaded from: www.waverley.nsw.gov.au/publications/

- (b) Prior to the issue of the Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.
- (c) Should a section 4.55 modification result in any change to the total cost of the work, the Section 7.12 contribution is to be revised and amended. Prior to the issue of the Construction Certificate, evidence must be provided that the revised levy has been paid to Council in accordance with this condition.

Waverley Council Development Contributions Plans 2006 may be inspected at Waverley Council Customer Service Centre.

Advisory Note

- A development valued at \$100,000 or less will be exempt from the levy.
- A development valued at \$100,001 - \$200,000 will attract a levy of 0.5%.
- A development valued at \$200,001 or more will attract a levy of 1% based on the full cost of the development.

11. SECURITY DEPOSIT

A deposit or guarantee satisfactory to Council for the amount of \$80,000 must be provided as security for the payment of the cost of making good any damage caused or unauthorised works that may be caused to any Council property as a consequence of this building work.

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

12. LONG SERVICE LEVY

A long service levy, as required under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986, is to be paid in respect to this building work. In this regard, proof that the levy has been paid is to be submitted to Council prior to the issue of a Construction Certificate.

Note: Council acts as an agent for the Long Service Payment Corporation and the levy may be paid at Council's office. The levy rate is 0.35% of building work costing \$25,000 or more.

13. ADDITIONAL DA FEE REQUIRED

In accordance with the amended Quantity Surveyors Report submitted to Council on 18 January 2018 which declared the estimated cost of the proposed building work to be \$5,950,244 in lieu of the original figure of \$ 3,714,291 as indicated on the development application form. In this regard, an additional development application fee of \$3,219.84 is to be paid, prior to the issue of the Construction Certificate.

14. SCHEDULE OF HERITAGE RESTORATION WORKS

To maintain the significance of the heritage listed building at Lot 1 in DP 908329, 27 Paul Street, Bondi Junction and associated building fabric, a full schedule of heritage restoration works prepared by an appropriately qualified professional, is to be provided to Council including, though not limited to;

- (a) Room by room schedules listing existing original fabric and conservation works proposed to maintain all such details and finishes;
- (b) These are to include all original joinery, plaster mouldings, fireplace surrounds and inserts, floor tiling, stair balustrades, doors and leadlight glazing;
- (c) External details including verandah joinery, windows, doors, balustrades, eaves, gable infills, palisade fencing and gates are to be reinstated based upon available evidence on site and in Waverley Library and other repositories of historic detailing and imagery;
- (d) The existing street front palisade fence to Paul Street is to be conserved and restored including the provision of matching gates to pedestrian and vehicle entries;
- (e) Site landscaping to the eastern [front] yard is to be detailed in form and species reflecting late Victorian landscaping which is well documented in reference sources;
- (f) External paint colours are to be based upon original colours following investigation of historic paint finishes to the building;
- (g) External lighting and any signage is to be discreet and appropriate to the style of the building.
- (h) Front fencing and detailing.
- (i) Repainting of building in heritage style colours.

The schedule of heritage restoration works is to be submitted for the approval of Council's Heritage Architect prior to the issue of any Construction Certificate.

15. HERITAGE DEED OF AGREEMENT

The owner(s) of the premises shall enter into and execute a Deed of Agreement with Council to ensure that the 'approved Schedule of Heritage Conservation Works' required in this consent for restoration works to the Heritage Listed building at **27 Paul Street, Bondi Junction** are completed before or concurrently with any other approved work on the site. The Deed of Agreement shall ensure that:

- (a) Any Occupancy Certificate (or Strata or Subdivision Plan if applicable) for the site is not released prior to the completion of the '*approved heritage works*';
- (b) Future owner(s) of the site will be bound by the terms of the Deed of Agreement; and

- (c) The owner(s) of the land must prepare and execute the Deed of Agreement prior to the issue of a Construction Certificate for any part of the development.
- (d) The costs (including for Council) of the preparation and registration of all legal and associated expenses associated with this deed and any future amendments to the deed is to be met by the owner(s) or applicant.
- (e) Other than as contemplated by this condition the terms of the Heritage Deed of Agreement are not further amended unless agreed in writing by Council and the Owners of the Development Site.

16. TREE PRESERVATION BOND

A bond of \$4,000 is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection and maintenance of the existing street trees in Paul Street. The bond is to be lodged prior to the issue of a Construction Certificate. The bond will be refunded after 24 months on condition that the trees are maintained in good condition as determined by Council's Tree Officer. If the trees requires replacing within the bond period the trees must be replaced within one month of notification from Council and not at the end of the bond period.

17. AFFORDABLE HOUSING CONTRIBUTION – PAYMENT IN ACCORDANCE WITH STATE ENVIRONMENTAL PLANNING POLICY (AFFORDABLE RENTAL HOUSING) 2009

If required by the satisfaction of Deferred Commencement Matter 1, pursuant to clause 51(2) of State Environmental Planning Policy (Affordable Rental Housing) 2009, the applicant must provide a monetary contribution towards the provision of affordable housing as the proposed development will or is likely to reduce the availability of affordable housing within the area.

The contribution fee, as determined by Deferred Commencement Matter 1 is payable for the provision of affordable housing under s7.32 (3)(b) of the Environmental Planning and Assessment Act 1979 for the purpose of mitigating the loss of low-rental accommodation proposed by the subject DA and shall be paid in one complete payment to Waverley Council prior to the issue of a Construction Certificate.

This condition does not apply if Deferred Commencement Matter 1 determines that there will not be a loss of affordable housing as result of the proposed development.

18. NO BUILDING OR DEMOLITION WORKS PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

The building work, or demolition work, must not be commenced until:

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with Section 81A(2) of the Environmental Planning & Assessment Act, 1979; and
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with Section 81(A)(2)(b) of the Environmental Planning & Assessment Act, 1979 and Form 7 of Schedule 1 of the Regulations; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

The owner/applicant may make application to Council or an Accredited Certifier for the issue of a Construction Certificate and to be the Principle Certifying Authority.

19. ESSENTIAL SERVICES - NEW BUILDING

Details of the proposed essential fire safety measures/services shall be submitted to Council with the application for a Construction Certificate or be attached to the Construction Certificate, including a certificate, prepared by a person competent to do so, setting out the:

- (a) basis of design;
- (b) standard to which the system is to be installed; and
- (c) all relevant documentation, including all drawings such as wiring diagrams, duct layouts, hydraulic schematics etc and calculations shall be submitted for Council's records.

At the completion of the installation, certification containing the following information shall be attached to the application for an Occupation Certificate or to the Occupation Certificate:

- (a) inspection, testing and commissioning details;
- (b) date of inspection, testing and commissioning;
- (c) the name and address of the individual who carried out the test; and
- (d) a statement that the service has been designed, installed and is capable of operating to the above standard.

20. ESSENTIAL SERVICES - EXISTING BUILDING

Details of the currently implemented and proposed essential fire safety measures shall be submitted to Council, with the Construction Certificate, in the form of a Fire Safety Schedule. This Schedule shall be prepared by a person competent to do so and shall specify the minimum standard of performance for each essential fire safety measure included in the Schedule.

At the completion of the installation, a Final Fire Safety Certificate shall be attached to the Occupation Certificate, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:

- (a) has been assessed by a properly qualified person; and
- (b) found to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

21. FIRE SAFETY UPGRADING WORKS

- (a) In addition to all new works fully comply with the Building Code of Australia, pursuant to Clause 94 of the Environmental Planning and Assessment Regulation 2000, all existing areas of the building must be upgraded to comply with the following provisions of the Building Code of Australia (BCA):

- (i) Fire resistance and stability – Part C1;
- (ii) Compartmentation and separation – Part C2;
- (iii) Protection of openings – Part C3
- (iv) Provision for escape – Part D1;
- (v) Construction of exits – Part D2;

- (vi) Access for people with a disability – Part D3;
- (vii) Fire fighting equipment – Part E1;
- (viii) Smoke hazard management – Part E2;
- (ix) Lift installations – Part E3;
- (x) Emergency lighting, exit signs and warning systems – Part E4;
- (xi) Sanitary and other facilities – Part F2;
- (xii) Room heights – Part F3;
- (xiii) Light and ventilation – Part F4; and
- (xiv) Sound transmission and insulation - Part F5.

- (b) If compliance with the deemed-to-satisfy provisions of the BCA and the matters listed in condition (a) above cannot be achieved, an alternative building solution in accordance with Part A0 of the BCA must be prepared by a suitably qualified and accredited person and be submitted to the Certifying Authority illustrating how the relevant performance requirements of the BCA are to be satisfied. Prior to a Construction Certificate being issued, the Certifying Authority must ensure that the building complies with the Building Code of Australia.
- (c) The BCA matters identified in (a) above are not an exhaustive list of conditions to verify compliance or non-compliance with the BCA. Any design amendments required to achieve compliance with the BCA must be submitted to Council. Significant amendments may require an application under Section 96 of the Act to be lodged with Council to amend this consent.

Note: The provisions of Clause 94 of the Environmental Planning and Assessment Regulation 2000 have been considered in the assessment of the proposed development.

22. ARCHITECT TO SUPERVISE DESIGN - CONSTRUCTION CERTIFICATE DOCUMENTATION

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

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

23. SERVICE AUTHORITIES

The applicant is to seek approval from the relevant service authorities regarding any possible modification to the relevant infrastructure prior to the issue of a Construction Certificate.

24. HOARDING REQUIRED

A standard A / B Class hoarding designed and constructed in accordance with the requirements of the Work Cover Authority is to be erected on the street alignments of the property, prior to the commencement of building operations, and such hoardings to be maintained during the course of building operations. Details of the hoarding are to be provided to Council prior to issue of the Construction Certificate.

Where the hoarding is to be erected over the footpath or any public place, the approval of Council must be obtained prior to the erection of the hoarding.

25. ENGINEERING DETAILS

Structural details prepared and certified by a practicing Structural Engineer being furnished to Council or Accredited Certifier in connection with all structural components prior to the issue of a Construction Certificate.

26. ENGINEERING DETAILS - CERTIFICATE OF ADEQUACY

A Certificate of Adequacy prepared by a practicing Structural Engineer, certifying the adequacy of the existing building structure to carry the extra load of the proposed additions to the existing Heritage Building is to be provided to Council or the Accredited Certifier prior to the issue of a Construction Certificate.

27. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Excavation, proposed or undertaken in the certification or construction of the development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 4.55 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

28. DETAILS OF BULK EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works. The Report shall be submitted to the Principal Certifying Authority, Council and the owners of adjoining properties prior to the issue of a Construction Certificate.

Any practices or procedures specified in the Structural Engineer's report in relation to the avoidance or minimisation of structural damage to adjoining properties are to be fully complied with and incorporated into the plans and specifications together with the Construction Certificate.

29. GEOTECHNICAL ENGINEERS REPORT

The Geotechnical assessment submitted to address the Deferred Commencement matters is to be adhered to at all times.

The geotechnical report must address the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works. The report is to be submitted prior to the issue of a Construction Certificate and commencement of any such works on the site.

30. ROCK ANCHORS

Any rock anchors into Council/public land or adjoining properties requires appropriate owners consent from all affected parties. Subsequently, evidence of the registration of easement is required for any rock anchors proposed to encroach the subject property boundary (to support the basement retaining wall) prior to the issue of a Construction Certificate.

31. SITE WASTE AND RECYCLING MANAGEMENT PLAN

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

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

32. EROSION, SEDIMENT AND POLLUTION CONTROL

Erosion, sediment and pollution control measures are to be implemented on this site. These measures are to be in accordance with Council's Stormwater Policy and are to be implemented prior to commencement of any work or activities on or around the site. Details of these measures are to be submitted to the Principal Certifying Authority prior to the issuing of a Construction Certificate.

33. CONSTRUCTION VEHICLE AND PEDESTRIAN PLAN OF MANAGEMENT

Prior to the issue of a Construction Certificate, the applicant shall submit a "Construction Vehicle and Pedestrian Plan of Management" (CVPPM) for the approval of the Executive Manager, Creating Waverley

The CVPPM shall provide, but not be limited to, details of the following:

- (a) The proposed route to be taken by demolition/construction vehicles in the Council area when accessing and exiting the site.
- (b) The type, size and number of demolition/construction vehicles for each of the separate phases of the development. Trucks with dog trailers and semi-trailers may not be approved for use if it is considered with the information provided that:
 - a. such vehicles cannot adequately and safely gain access to and from the site or
 - b. access into or out of the site may not be possible without the need to remove an unsatisfactory number of vehicles parked on the roadway adjacent to or opposite the site.
- (c) The location of truck holding areas remote from the site should Council not give approval for demolition/construction vehicles to stand on the roadway in the vicinity of the site.
- (d) Traffic control measures to be put in place when trucks, manoeuvring in the vicinity of the site, will interfere with the free flow of traffic.
- (e) The location and materials of construction of temporary driveways providing access into and out of the site.
- (f) The location and length of any proposed Works/Construction Zones. Note:
 - a. Works/Construction zones require the approval of the Waverley Traffic Committee and Council prior to installation.
 - b. It is illegal to:
 - i. Park a vehicle exceeding 4.5 tonnes on a roadway for more than one (1) hour unless signs are installed to the contrary
 - ii. Barricade/reserve a section of roadway without the prior approval of Council
- (g) The hours of operation of demolition/construction vehicles.

- (h) The number of and where it is proposed to park light vehicles associated with staff/employees/contractors working on the site.
- (i) How it is proposed to cater for the safe passage of pedestrians past the site. The details shall include:
 - a. The route required to be taken by pedestrians including signage and any other control measures that will need to be put in place to direct and keep pedestrians on the required route
 - b. Any obstructions such as street furniture, trees and bollards etc., that may interfere with the safe passage of pedestrians
 - c. The type(s) of material on which pedestrians will be required to walk
 - d. The width of the pathway on the route
 - e. The location and type of proposed hoardings
 - f. The location of existing street lighting

NOTE: PRIOR TO THE PREPARATION OF THE CVPPM, the applicant or his or her representative shall:

- i. Make contact with Council's Senior Traffic Engineer to discuss information required at (a) to (i) above.
- ii. Make contact with the operators of bus and taxi services whose zones may be affected/require temporary relocation as a result of development works
- iii. Be aware that the full length of Oxford Street may not be approved as a route for trucks when travelling to or from the site
- iv. Be aware swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, may need to be submitted to Council for all truck movements that are to take place within the Council area prior to an approval being issued for the CVPPM.
- v. Be aware of and take into account the cumulative effect that truck movement from the development site and other development sites in the vicinity that are either under construction or have development approval will have on roads leading to and from the site.

34. LONG SECTIONS OF DRIVEWAY

Long sections, drawn along both edges of the Council Street driveway shall be submitted to Council for the approval of the Executive Manager, Creating Waverley prior to issue of the Construction Certificate.

The long section drawings shall:

- (a) Be drawn at a scale of 1:25
- (b) Include reduced levels (RL's) of the Council Street carriageway, the kerb and gutter, footpath and paving within the property for the first 5m.
- (c) Include existing and design levels.
- (d) Include ground clearance of the B85 design vehicle using the ground clearance template contained in Appendix C of AS 2890.1: 2004 Off Street Car Parking.
- (e) Show all paving on Council's land being sloped/ drained towards the roadway.
- (f) Include a separate drawing of any adjustments required to Council's footpath area to provide suitable vehicular access to and from the garage

35. STORMWATER MANAGEMENT

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

Note: Under the current design, the orifice diameter must be 140mm.

36. SWEEP WHEEL PATH DRAWINGS- COUNCIL STREET

In order to minimise the loss of on street parking and provide for a gutter crossing width that caters for minimum vehicle passing clearances and two way operation, swept wheel path drawings shall be submitted to Council confirming the required minimum gutter crossing width.

Prior to the issue of the Construction Certificate, swept wheel path drawings, prepared by a suitably qualified and experienced traffic engineering consultant, showing the swept wheel path of vehicles entering and exiting the property from Council Street and the associated minimum gutter crossing width shall be submitted to Council for the approval of the Executive Manager, Creating Waverley.

37. VEHICULAR ACCESS

Vehicular access and gradients of vehicle access driveway(s) within the site are to be in accordance with Australian Standard 2890.1 Parking Facilities - Off Street Car Parking with details provided on the plans prior to the issue of the Construction Certificate.

38. CAR PARKING ALLOCATIONS

A total of **11** car vehicle parking spaces are to be provided, allocated in the following manner:

- (a) 9 residential parking spaces located within the basement (4 residential parking spaces for the units within the Heritage Building, 5 residential parking spaces for the units in the new building facing Council Street);
- (b) 1 visitor hardstand carspace, accessed from Paul Street.
- (c) 1 visitor space located within the basement, accessed from Council Street.
- (d) 2 of these spaces shall be accessible spaces (associated with the adaptable housing units where possible);

Details are to be shown on the plans and submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

39. HARD STAND PARKING SPACE TO PAUL STREET

The “manager parking space” as noted on the plans is to be amended to a visitor parking space. Any vehicle parking in this space shall be located behind the front wall of the Heritage building (27 Paul Street).

40. MOTORCYCLE PARKING

A total of **1** motorcycle parking spaces are to be provided within the basement car parking area. Details are to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate.

41. BICYCLE PARKING

A total of **16** bicycle parking spaces are to be provided, allocated in the following manner:

- (a) 14 residential bicycle spaces,
- (b) 2 visitor bicycle spaces

The residential spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the basement car parking area.

2 visitor bike racks must be provided for the development. One visitor bicycle space is to be provided at the entrance of each building.

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

42. ACCESSIBLE CARPARKING

All disabled car parking space dimensions and head clearances both at and to and from the spaces are to be in accordance with Australian Standards AS2890.6:2009 Off-street Parking for People with Disabilities.

A minimum of 2 car spaces shall be dedicated for the vehicles of people with disabilities.

The car spaces shall be identified and reserved at all times and be in the vicinity of a lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions of 3.2m x 5.5m and minimum headroom clearance of 2.5m for vehicles fitted with a roof mounted wheelchair rack.

A notice shall be displayed at the entrance to the car park and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles.

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

43. ACCESS

The development shall be provided with access and facilities for people with disabilities in accordance with AS1428.1-2009 Design for Access and Mobility Part 1: General Requirements for Access. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

44. ACCESSIBLE SIGNAGE

Appropriate signage and tactile information indicating accessible facilities shall be provided at the main entrance directory or wherever directional signage or information is provided in the building. Such signage shall have regard to the provisions of AS1428.2.

45. ADAPTABLE AND UNIVERSAL HOUSING

Two of the units within the new RFB are to be adaptable and 20% of the units within the whole development are to have a universal design in accordance with Part B of the Waverley Development Control Plans 2012.

Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

46. NOISE ATTENUATION IN RESIDENTIAL FLAT BUILDINGS

Noise attenuation is to be achieved in all residential units within the building by a minimum of the following standards:

- (a) A wall shall have a Field Sound Transmission Class (FSTC) of not less than 50 if it separates sole occupancy units or a sole occupancy unit from a stairway, public corridor, hallway or the like;
- (b) A wall separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have a FSTC of not less than 55;
- (c) A wall or floor shall have a FSTC of not less than 55 if it separates a sole occupancy unit from a plant room;
- (d) A floor separating sole occupancy units must not have a FSTC of less than 50; and
- (e) A floor separating a bathroom, sanitary compartment, laundry or kitchen in one sole occupancy unit from a habitable room (other than a kitchen) in an adjoining unit shall have an Impact Isolation Class of not less than 55.

Details are to be provided on the plans to the satisfaction of the Principal Certifying Authority prior to the issue of the Construction Certificate.

47. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION

A site specific noise management plan must be submitted to the Council for approval and comment prior to the issue of a construction certificate and complied with during any building works. The plan must be prepared by a suitably qualified person who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants. The plan must include but not be limited to the following:-

- (a) Confirmation of the level of community consultation that has and will be undertaken with Building Managers/occupiers/residents of noise sensitive properties likely to be affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (b) Confirmation of noise methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with Council's noise criteria.
- (c) What course of action will be undertaken following receipt of a complaint concerning site noise emissions?
- (d) Details of any noise mitigation measures that have been outlined by an acoustic engineer or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring property to a minimum.
- (e) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

48. BASIX

The undertakings provided in the BASIX Certificate shall be provided for in the Construction Certificate plans and documentation prior to the issue of the Construction Certificate. If required, a modified BASIX Certificate shall be provided that reflects the development as approved (eg addressing any modification required via conditions of consent). Any significant works (ie any works not able to be considered as Exempt and Complying Development) that result from changes to the BASIX Certificate or conflict with conditions of consent require Council's consent.

The Principal Certifying Authority shall be responsible for ensuring that all the undertakings are satisfied prior to the issue of an Occupation Certificate.

The above condition is a prescribed condition under the Environmental Planning and Assessment Act Regulations clause 97A and the above BASIX commitments are mandatory and cannot be modified under Section 96 of the *Environmental Planning and Assessment Act 1979*.

49. BASEMENT STORAGE

Storage is to be allocated to individual units in accordance with the following minimum requirements:

- (a) Studio and 1 bedroom unit: 6m³ of storage, and
- (b) 2 bedroom unit: 8m³ of storage.

Plans demonstrating compliance with these requirements are to be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

50. WASTE AND RECYCLING STORAGE AND COLLECTION

- (a) The proposal must have a bin storage point in each building for the residential units. Please refer to the rates in the Waverley DCP 2012 to allocate the bins between the Council Street building and Paul Street building, depending on the number of units contained within each. The total number of bins required is:
 - 10 Mobile garbage bins (MGBs) for general waste
 - 4 MGBs for container recycling
 - 4 MGBs for paper and cardboard recycling
 - Extra MGBs – 1 MGB for excess waste and 1 MGB for garden organics should this type of waste be generated at the property
- (b) The bin storage areas must be ventilated
- (c) All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B, Section 1.2.1, Section 1.2.3 and Section 1.2.4 of Waverley Council Development Control Plan 2012.
- (d) The new residential flat building to Council Street must have a system for the convenient transportation of waste and recyclables to the communal waste and recycling storage area (i.e. chute systems or a service lift dedicated for the transportation of waste).
- (e) Developments that are more than 3 habitable storeys must provide a waste and recycling compartment/area on each floor with sufficient capacity to store a minimum of 1 day volume of waste and recycling likely to be generated on that floor.
- (f) The development must have rooms or caged areas with a minimum volume 4m³ available for the storage of discarded residential bulky waste, such as old furniture, awaiting Council pick up.
- (g) Residential units must be insulated from noise if adjacent or above the waste and recycling storage facility, compaction equipment or collection and vehicle access points.

51. RMS CONDITIONS

- (a) All redundant driveways are to be removed and replaced with kerb and gutter to Roads and Maritime requirements. The design and construction of the new gutter crossing on Council Street shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed gutter crossing are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

- (b) The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001. The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days' notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

- (c) Should the post development storm water discharge from the subject site into the Roads and Maritime system exceed the pre-development discharge, detailed design plans and hydraulic calculations of any charges are to be submitted to Roads and Maritime for approval, prior to the commencement of works. Details should be forwarded to: Suppiah.THILLAI@rms.nsw.gov.au

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.

- (d) A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Council Street during construction activities.
- (e) All demolition and construction vehicles are to be contained wholly within the site as a (or on Paul Street) construction zone will not be permitted on Council Street.

52. LANDSCAPED SLABS

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

53. AMENDED LANDSCAPE PLAN

The Landscape Plan is to be amended to reflect the approved plans and including the following modifications;

- (a) No pergola structures are permitted without first obtaining the relevant planning consent;
- (b) Screen planting is to be provided along the northern and southern boundaries of the sites to provide privacy to the adjoining properties.
- (c) levels should be included on the landscape drawings and embankment planting noted to account for the slope across the central courtyard.
- (d) The landscape planter strip along the southern boundary of 8-10 Council Street shall be extended from entry lobby (of residential flat building) to the front pedestrian entry at the front (western) boundary to provide an acoustic and visual buffer between the primary entry to the residential flat building and the adjoining property at 12 Council Street.
- (e) Vegetation and proposed landscaping and fencing must not hinder driver sightlines to/from the driveway to road users on Council Street. A statement must be submitted with the amended landscaping plan from a qualified traffic consultant to verify that the height of the proposed planting species will meet the required sightlines in accordance with the RMS requirements.

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

54. EXTERNAL FINISHES

The schedule of external finishes for the residential flat building which faces Council Street requires further refinement and shall be submitted for Council's consideration prior to the issue of the Construction Certificate.

The schedule shall include details of proposed external walls and roofing materials, including window fenestration and window frame colour details, as well as fencing, paving and balustrading details and guttering colour and profile.

55. FIRE SAFETY WORKS TO BE REVIEWED BY A REGISTERED HERITAGE ARCHITECT

The required fire safety works recommended in the BCA report are to be reviewed by a registered Heritage Architect to ensure that these works are generally consistent with the heritage significance of the building. In this respect, the project's Heritage Architect and Building Surveyor must jointly confer and agree on these works. These works may be modified to address a balance between retention of the heritage significance of the building and contemporary building standards.

The Heritage Architect's report is to be provided as an addendum to the approved and suitably modified Building Code of Australia Compliance Report prior to release of the Construction Certificate for the building at 27 Paul Street.

56. FENCE NOT TO ENCROACH BEYOND BOUNDARIES

No portion of the proposed fence, including the footings, is to encroach beyond the boundaries of the subject property. Alternatively, documentary evidence that the owner of the adjoining property has no objection to the construction of the party fence wall on the common boundary between these properties is to be submitted to Council prior to the issue of a Construction Certificate.

57. ROOF SERVICES

- (a) Any future solar panels / photovoltaic panels on the amended roof plan, are to be flush with the roof, so as not to project above the parapet height of the building.
- (b) Any future roof services/plant (excluding solar panels) shall be limited to 20% of the roof plane.

Details are to be submitted to the satisfaction and approval of Council's Waverley Director, Waverley Futures, or delegate prior to the issue of a Construction Certificate.

58. ROOFWATER GUTTERING

All new or replacement roof guttering is to comply with the requirements of the Building Code of Australia and Australian Standard AS 3500 *Plumbing & Drainage Standards* to ensure that collected roof water does not flow back into the building.

C. COMPLIANCE PRIOR TO AND DURING CONSTRUCTION

59. PRIOR TO SITE WORKS

The Principal Certifying Authority must be informed in writing before any site works, building or demolition commences of:

- (a) the name and contractor licence number of the licensee who has contracted to do, or intends to do, work ; or
- (b) the name and permit number of the owner/builder who intends to do the work; and
- (c) any change to these arrangements for doing of the work.

60. HOME BUILDING ACT

The builder or person who does the residential building work shall comply with the applicable requirements of Part 6 of the Home and Building Act, 1989. In this regard a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy the Principal Certifying Authority that they have complied with the applicant requirements of Part 6, before any work commences.

61. CONSTRUCTION SIGNS

Prior to commencement of any works on the site and during construction a sign shall be erected on the main frontage of the site detailing the name, address and contact details (including a telephone number) of the Principal Certifying Authority and principal contractor (the coordinator of the building works). The sign shall be clearly legible from the adjoining street/public areas and maintained throughout the building works.

62. OBSTRUCTION TO PUBLIC AREAS

If a public place or pedestrian vehicular traffic may be obstructed because of the carrying out of work involved in the erection or demolition of a building; or a public place is required to be enclosed in connection with the erection or demolition of a building; then:

- (a) a hoarding fence must be erected between the building site and the public place of the proposed building and the public place. If necessary, an awning sufficient to prevent any substance from, or in connection with, the work falling into the public place, is also to be erected;
- (b) the work is to be kept lit during the time between sunset and sunrise if the work may be of a sort of danger to persons using the public place; and
- (c) a hoarding, fence or awning is to be removed when it is no longer required for the purpose it was provided.

63. TOILET FACILITIES

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

64. NO USE OF ORGANOCHLORIN PESTICIDES

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

65. DILAPIDATION REPORTS

A Dilapidation report should be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. This action is designed to assist all parties should damage occur and is not a preventative action. The dilapidation reports should be completed and submitted to the relevant owner of the affected property, Council and the Principal Certifying Authority prior to undertaking any works that may cause damage

Please note the following:

- (a) The dilapidation report will be made available to affected property owners on request and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- (b) This is not a condition of consent and cannot be used to prevent the commencement of works or prevent neighbouring buildings being damaged by the carrying out of the development.
- (c) Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out.
- (d) Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

66. SITE HEALTH & SAFETY PLAN

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

- (a) Hazard identification and control
- (b) Site security
- (c) Personal protective equipment
- (d) Work zones and decontamination procedures
- (e) Contingency plans and incident reporting environmental monitoring

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

67. DEMOLITION OR ALTERATION OF PRE 1987 BUILDINGS

At least five (5) days prior to the demolition, renovation work or alterations and additions to any building constructed before 1987, the person acting on the consent shall submit a Work Plan prepared in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous

Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

- (a) outline the identification of any hazardous materials, including surfaces coated with lead paint;
- (b) confirm that no asbestos products are present on the subject land; or
- (c) particularise a method of safely disposing of the asbestos in accordance with the Code of Practice on how to safely remove asbestos published by WorkCover NSW (catalogue WC03561)
- (d) describe the method of demolition;
- (e) describe the precautions to be employed to minimise any dust nuisance; and
- (f) describe the disposal methods for hazardous materials.

68. DEMOLITION & SITE PREPARATION

Hazardous or intractable wastes arising from the demolition process being removed and disposed of in accordance with the requirements NSW WorkCover Authority and the NSW Environment Protection Authority (EPA), and with the provisions of:

- (a) Work Health & Safety Act 2011;
- (b) Work Health & Safety Regulation 2011;
- (c) Protection of the Environment Operations Act 1997 (NSW) and
- (d) NSW EPA Waste Classification Guidelines 2009.

69. DEMOLITION AND CONSTRUCTION WASTE MANAGEMENT

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

- (a) Separate collection bins or areas for the storage of waste is to be provided (giving consideration to slope, drainage, vegetation, access and handling requirements including:
 - (i) Landfill waste;
 - (ii) Recyclable waste;
 - (iii) Materials to be re-used on-site; and / or
 - (iv) Excavation materials.

See Annexure B1-1 of the Waverley DCP for common building materials re-use and recycling potential.

- (b) A 100% re-use of sandstone is required.
- (c) All storage areas/ containers are to be located within the property boundary and indicated on the site plans / drawings as part of the SWRMP.
- (d) Where space on a development is limited, approval may be granted by Council to place a skip on a footpath or other public area in line with Part B of Waverley DCP 2012.
- (e) Waste and recycling containers/skips may only be provided by persons/companies holding a current permit granted by Council.
- (f) Asbestos and other hazardous material is to be managed under the Protection of the Environment Operations Act. For further information go to Councils Asbestos Policy 2005 and www.nsw.gov.au/fibro and www.workcover.nsw.gov.au.

- (g) Materials that cannot be reused or recycled should be disposed of at an 'approved' landfill and specified in the SWRMP.
- (h) Records are to be retained on-site demonstrating lawful disposal of waste.
- (i) Easy vehicular access to waste and recycling material storage areas must be provided.
- (j) Construction materials are to be stored away from waste and recycling materials to enable easy access for waste collectors.
- (k) All waste and recycling is to be stored to prevent damage by the elements, odour, health risks and windborne litter.

70. ASBESTOS REMOVAL

- (a) All demolition works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover NSW Friable Class A Asbestos Removal Licence or where applicable a Non-friable Class B (bonded) Asbestos Removal Licence. Removal must be carried out in accordance with the "Code of Practice on how to safely remove asbestos" published by WorkCover NSW (catalogue no.WC03561) and Waverley's Asbestos Policy.
- (b) All adjoining properties and those opposite the development must be notified in writing of the dates and times when asbestos removal is to be conducted. The notification is to identify the licensed asbestos removal contractor and include a contact person for the site together with telephone and email address.
- (c) No asbestos products are to be reused on site.
- (d) Standard commercially manufactured signs containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm are to be erected in prominent visible positions on the site during asbestos removal works.
- (e) No asbestos laden skips or bins are to be left in any public place without the approval of Council.

71. USE OF FILL ON SITE

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

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

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

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

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

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

72. COMPLIANCE WITH SAFE WORK NSW REQUIREMENTS

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

73. SOIL AND WATER MANAGEMENT PLAN

A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to SSROC's Soil and Water Management Brochure and the NSW Environment Protection Authority (EPA) Managing Urban Stormwater: Soils and Construction. This Plan shall be implemented prior to commencement of any works or activities. All controls in the Plan shall be maintained at all time. A copy of the Soil and Water Management Plan must be kept on site at all times and made available to Council officers on request.

74. STOCKPILES

Stockpiles of topsoil, sand, aggregate, soil or other material shall not be located on any drainage line or easement, natural watercourse, footpath or roadway and shall be protected with adequate sediment controls.

75. TEMPORARY DIVERSION OF ROOF WATERS

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

76. LOCATION OF BUILDING OPERATIONS

Building operations such as brick cutting, washing tools or brushes and mixing mortar are not permitted on public roadways or footpaths or in any locations which could lead to the discharge of materials into the stormwater drainage system.

77. FOOTPATH PROTECTION

The footpath and driveway must have a protective cover e.g. duckboards or plates to ensure these are not damaged during the course of demolition and/or construction. The protective measure is to be installed prior to the commencement of any works on the site.

78. ALL BUILDING MATERIALS STORED ON SITE

All building materials and any other items associated with the development are to be stored within the confines of the property. No materials are to be stored on Council's footpath, nature strip, or road reserve without prior Council approval.

79. CONSTRUCTION HOURS

Demolition and building work must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays and 8am to 3pm on Saturdays with no work to be carried out on:

- (a) The Saturday (except minor renovation or refurbishment to a single dwelling construction) and Sunday which form part of public holiday weekends; and
- (b) Sundays and public holidays

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

80. BUILDING CODE OF AUSTRALIA

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

81. SEDIMENT REMOVAL FROM VEHICLE WHEELS

A vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed in accordance with the approved Soil and Water Management Plan for the site prior to the commencement of any site works or activities.

82. POTENTIAL DEWATERING OF THE SITE

Should dewatering of the site be required, the onus is on the developer to:

- (a) Undertake the necessary site investigations prior to construction;
- (b) Prove that a water table is present or absent;
- (c) Assess the feasibility of alternative construction methods;
- (d) Assess the potential contaminated site, acid sulphate soil and saline intrusion issues;
- (e) Design an appropriate and safe dewatering system;
- (f) Apply for a dewatering licence,
- (g) Provide a detailed geotechnical and hydrogeological report regarding construction dewatering and monitoring;
- (h) Design and implement a monitoring program;
- (i) Monitor, analyse, interpret and report on dewatering to Council. DWE and possibly DECC throughout construction;
- (j) Inform Council of unexpected site conditions (such as water tables or high seepage rates) and subsidence issues.

83. USE OF HEAVY EARTH MOVEMENT EQUIPMENT

Excavation works involving the use of heavy earth movement equipment including rock breakers and the like must only be undertaken between the hours of 7am and 5pm on Mondays to Fridays with no such work to be carried out on Saturday, Sunday or a public holiday.

84. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans (except as amended by specific conditions of consent). Excavation, proposed or undertaken in the certification or construction of the

development, that results in additional habitable or non-habitable floor space (including storage) shall require the submission of a new development application or Section 96 application to modify the approved development. During consideration of this application construction work on site shall cease without prior agreement of Council. Failure to comply with this condition may lead to Council prosecuting or taking a compliance action against the development for breach of its consent.

85. EXCAVATION AND BACKFILLING

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards and must be properly guarded and protected to prevent them from being dangerous to life or property.

86. EXCAVATION BELOW FOOTINGS

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made, at their own expense, must:

- (a) preserve and protect the building from damage; and
- (b) if necessary, must underpin and support the building in an approved manner; and
- (c) must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

87. EXCAVATION TO BE MANAGED BY STRUCTURAL ENGINEER

Bulk excavation is to be managed by a practising structural engineer, in accordance with the specification for shoring and support, as detailed in the approved Construction Certificate.

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

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) and in accordance with the Building Legislation (Quality of Construction) Act 2002 and the Environmental Planning and Assessment Regulations. Also, documentary evidence of compliance with the relevant terms of conditions of development consent and standards of construction detailed in the Building Code of Australia is to be obtained prior to proceeding to the subsequent stages of construction and/or issue of an Occupation Certification.

MANDATORY Critical Stage Inspections **MUST** be carried out by the PCA for work undertaken during specified stages of construction and prior to issuing an Occupation Certificate.

The specified **MANDATORY** inspections are:

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

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

- (d) after the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The following additional inspections are required to be undertaken by the PCA:

- (a) sediment control measures prior to the commencement of building work;
- (b) foundation material prior to undertaking building work;
- (c) shoring of excavation works, retaining walls, piers, piling or underpinning works;
- (d) steel reinforcement, prior to pouring concrete;
- (e) prior to covering timber or steel framework for floors, walls and roofing, including beams and columns;
- (f) prior to installation of fire resisting construction systems (ie fire rated ceilings and walls).

Note: Certification may be required from a suitably qualified person, in relation to specialist matters, verifying that particular works satisfy the relevant requirements of the Building Code of Australia and standards of construction.

89. CERTIFICATE OF SURVEY - LEVELS

All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans. Certification from a Registered Surveyor certifying ground, upper floor/s and finished ridge levels is to be submitted to the Principal Certifying Authority during construction and prior to continuing to a higher level of the building.

90. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

A Certificate of Survey prepared by a Registered Surveyor setting out the boundaries of the site and the actual situation of the building on the site is to be submitted to the Principal Certifying Authority to certify the building is located in accordance with the development consent plans. The Certificate is to be submitted prior to the construction of the external walls above the ground floor level of the building.

91. FIRE SAFETY - EXITS

Exits and paths of travel to exits are to be kept clear and at all times to provide clear access to exits and provide a safe passage for occupants to open space in accordance with Section D of the BCA.

92. FIRE SAFETY MAINTENANCE

Access to all essential fire safety measures, such as fire hydrants, fire hose reels, portable fire extinguishers and the like must be maintained at all times and not be blocked or obstructed by furniture, equipment or the like.

93. HERITAGE ARCHITECT

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

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

94. CARE TO BE TAKEN DURING CONSTRUCTION

The proposed works are to be carried out in a manner that minimises demolition, alterations, and new penetrations/fixings to the significant fabric of the existing building at 27 Paul Street, which is listed as a Heritage Item.

95. IN-SINK WASTE DISPOSAL SYSTEMS

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

96. WATER PROOFING

The floor and wall surfaces of the proposed wet areas being protected against water in accordance with the Building Code of Australia. The wet areas are to be examined and certified by an Accredited Certifier.

Note: Water proofing is to be in accordance with AS 3740 - Water Proofing of Wet Areas within residential buildings.

97. HOT TAP WATER SCALDING

To reduce the incidence of hot tap water scalding and, for the purpose of energy efficiency, all new or replacement hot water systems shall deliver hot water to a maximum 50 degrees Celsius at the outlet of all sanitary fixtures used for personal hygiene.

98. SERVICE PIPES

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.

99. TREE REMOVAL

In accordance with the approved Arboricultural Impact Assessment Report, the following trees are permitted for removal on the development site.

Tree No.	Species	Location	Action
T 2	Macadamia integrifolia (Macadamia nut)	On-site	Remove as per Arborist report.
T 4	Phoenix canariensis (Canary Island Date Palm)	On-site	Remove as per Arborist report.

100. TREE RETENTION

The following trees are to be retained in accordance with recommended Tree Protection Measures (Section 10) of the approved Arboricultural Impact Assessment Report. A Tree Protection Fence in accordance with Section 10.3 is to be installed.

Tree No.	Species	Location	Action
	Eucalyptus sp	29-31 Paul St	Protect & retain as per N4 Tree Protection
	Melaleuca sp	29-31 Paul St	Protect & retain as per N4 Tree Protection
T 1	Phoenix canariensis (Canary Island Date Palm)	On-site	Protect & retain as per Arborist report
T 3	Metrosideros excelsa (NZ Christmas Bush)	On-site	Protect & retain as per Arborist report
T 5	Photinia Robusta (Photinea)	Adjoining property	Protect & retain as per Arborist report
T 6	Schefflera actinophylla= Umbrella Tree	Adjoining property	Protect & retain as per Arborist report
T 7	Callistemon citrinus (crimson bottlebrush)	Street tree	Protect & retain as per Arborist report
T 8	Palm tree sp	On-site	Protect & retain as per Arborist report
T 9	Juglans regia (walnut tree)	On-site	Protect & retain as per Arborist report

101. TREE PROTECTION

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and
- (g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.
- (h) Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.
- (i) Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.
- (j) The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

102. STREET TREES

No existing street trees shall be removed without Council approval, (other than those shown for approval in this consent, where relevant). A 1.8m high chain link wire fence or the like shall be erected around the existing street trees to protect them from damage during construction. Where approval is granted for the removal of a street tree the applicant is to pay for its replacement with a super advanced tree of a species nominated by Council.

103. TREE PRUNING ON ADJOINING PROPERTIES

Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building will require consent under a separate Tree Preservation Order (TPO) application for works to the trees. No works can occur to these trees without a valid TPO.

The TPO application shall be supported by an Arborist report prepared by an Arborist with AQF level 5 qualification or above, certifying that the affected trees will be maintained in a healthy manner after the pruning works, to the satisfaction of Council's Tree Management Officer.

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

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

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

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

104. LANDSCAPE CONSULTANT

A qualified Landscape and/or Arboricultural Consultant shall be retained for the duration of the construction of the development. The Consultant shall submit to the Principal Certifying Authority a Certificate of Practical Completion stating the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. The Certificate shall be lodged upon satisfactory completion of the landscaping works and prior to the issue of the Occupation Certificate.

105. FINISHED LEVEL OF PAVING

Paving at the property boundaries shall be finished as follows:

- Council Street – level with Council's footpath
- Paul Street - level with Council's footpath.

106. NEW VEHICLE CROSSING - PAUL STREET

The existing vehicle crossing on Paul Street shall be demolished and a new vehicle crossing is to be provided to access the proposed hardstand. A separate application is to be submitted to Council for the vehicle crossing with all work to be carried out with the approval of and in accordance with the requirements of Council.

107. INTERNAL DRIVEWAY RAMP- LEVEL CERTIFICATION

Prior to pouring the concrete on the internal ramp between the Council Street property boundary and point of the first change of gradient, written documentation shall be submitted to Council for the

approval of Executive Manager of Creating Waverley, confirming the internal ramp formwork has been installed in accordance with the approved "Ramp Plan and Section" drawing.

108. ADJUSTMENTS TO STREET SIGNS

Any changes to the type and location of street/parking control signs required as a result of the works shall be undertaken at the applicant's expense in accordance with Council's or RMS requirements.

109. WORK OUTSIDE PROPERTY BOUNDARY

All work outside the property boundary is to be carried out with the approval of, and in accordance with, the requirements of Council at the applicant's expense.

110. ENCROACH BEYOND THE BOUNDARIES

No portion of the proposed building including the footings and roof eaves and fencing are to encroach beyond the boundaries of the subject property.

D. COMPLIANCE PRIOR TO OCCUPATION OR DURING OCCUPATION

111. FINAL OCCUPATION CERTIFICATE

The Principal Certifying Authority prior to occupation or use of the development must issue a final Occupation Certificate. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning & Assessment Act, 1979 have been satisfied.

112. CONSOLIDATION OF LAND

Prior to the issue of any Occupation Certificate, Lots 8-10 Council Street (Lots A and B in DP 162284) and 27 Paul Street (Lot 1 in DP 908329) must be consolidated to ensure that the basement parking facilities and common open space facilities can be shared.

The consolidated lot must have a registered restriction on the title, before the date of the issue of any occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919 that will ensure that the following requirements are met:

- (a) The units within the development are used for the purposes of affordable housing in accordance with Clause 17 of the SEPP (Affordable Rental Housing) 2009 and;
- (b) Will be managed by a registered community housing provider and;
- (c) For a period of 10 years from the date of an Occupation Certificate for use of the particular unit.
- (d) The cost of preparation and registration of any legal agreement(s) and all other documentation is to be met by the Registered Proprietor.

113. QUALITY OF AFFORDABLE HOUSING UNITS

The Registered Proprietor must ensure that:

- (a) the property complies with the following specifications:
 - (i) There is to be no diminution of quality.
 - (ii) All fixtures, fittings and inclusions are to be consistent with and reflect the same quality and standards as evident in other units and car spaces within the building and are to be verified by Council inspection of a random number of units within the Building.
 - (iii) The property will comply with appropriate Australian Standards and the Building Code of Australia.
 - (iv) The units will be equipped with floor-coverings, light fittings, clothes-dryers, telephone and television aerial points in the lounge and main bedroom, cable television fittings if provided in the Building, allocation of car and storage spaces consistent with other units, as a minimum all windows to have fly screens and venetian blinds/chain operated holland blinds or window furnishing consistent with other units, sliding door areas to have vertical blinds and security fly screen doors consistent with other units.
 - (v) Provision of air conditioning, security and/or intercom system to be consistent with other units.
- (b) a final inspection of the property and a random number of units within the building is carried out by Council (unless the Council authorises the appointed community housing organisation to do this in Council's place) to verify that the specifications referred to in this condition are complied with.

- (c) ensure that all defects identified in the final inspection as referred to in this condition are remedied to the satisfaction of Council prior to the release of the Strata Plan and Occupation Certificate.
- (d) provide Council with evidence of compliance with each of the above conditions as and when required by Council.

114. MANAGEMENT

The Property is to be managed by a community organisation on Council's registered housing provider list and is to provide accommodation for a household identified to be on low to moderate incomes.

An Occupation Certificate must not be issued in respect of the building the subject of this consent until such time as the Lease has been signed by the Owner and the Council or its Nominee Manager.

115. SYDNEY WATER

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

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

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

116. HERITAGE RESTORATION WORKS

The Heritage Restoration works (the "approved heritage works" as set out in the Heritage Deed of Agreement) shall be completed to the satisfaction of Council's Heritage Advisor prior to the release of any Occupancy Certificate (or Strata or Subdivision Plan if applicable) for the site.

117. STORMWATER MANAGEMENT

Prior to issuance of occupation certificate, certification is to be provided from a suitably qualified hydraulics engineer, that the stormwater system has been constructed in accordance with the approved stormwater management plans and to best engineering practice.

118. ARCHITECT TO SUPERVISE DESIGN - OCCUPATION CERTIFICATE DOCUMENTATION

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

119. WASTE AND RECYCLING STORAGE AND COLLECTION - USE

- (a) Composting facilities onsite must meet all design requirements set in Annexure B1-5 of the Waverley Council Development Control Plan.
- (b) Sufficient space must be allocated on-site for the storage of reusable items such as crates and pallets.
- (c) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (d) The path for bins between the waste and recycling storage area and the vehicle collection point must be free of steps and kerbs.
- (g) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of waste receptacles, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.
- (h) Clear and easy signs identifying the different MGB and where the MGBs should be stored in the storage area(s) must be displayed.
- (i) All waste and recycling bins must only be placed out on Council footpath for collection no earlier than 5:30 p.m. on the day prior to the designated waste collection day and retrieved from the kerbside as early as possible.

The above matters are to be detailed and submitted to the satisfaction of the Principal Certifying Authority prior to the occupation of the development.

120. DISPLAY OF WASTE MANAGEMENT PLAN

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

121. COMPOSTING

The development shall accommodate the provision of a composting service for residents and the scheme shall be under the responsibility of the Body Corporate and provided prior to issuing of the Occupation Certificate.

122. LIGHTING

- (a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Australian Standard AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting.
- (b) All external lighting fixtures should be vandal resistant.
- (c) Lighting should be carefully considered in areas covered by CCTV to allow for optimum viewing.
- (d) Lighting should be free of obstructions, such as tree branches, pipes, etc.

- (e) Transition lighting should also be used throughout the site to reduce vision impairment, i.e. impairment caused by walking from dark to light places and light to dark places.
- (f) All external area lights and carparks to multi-unit dwellings shall be on sensor switches to save energy and reduce light spill to the sky; low voltage solar powered lights to front entry footpaths are acceptable for continuously illuminated lighting.

123. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of primary and sub-premises numbering for multiple street frontages:

- No. 8 Council Street - primary address site number and location
- Alternative site number and location 27 Paul Street.

Premises with multiple street frontages and access points shall display the 'primary address number' on the site boundary of the primary address location and display both the primary address number and primary address location at alternative street address entry points to the building.

The relevant address numbers for the property shall be a minimum of 75mm high shall be positioned 600mm-1500mm above ground level and be clearly visible from the site boundaries on Council and Paul streets.

The following sub-addressing will apply:

- Nos. 1-7 for the sub-addresses within the building correlating with Nos. 1-7 on the floor plans for the building (27 Paul Street),
- Nos. 8-16 for the sub-addresses within the building correlating with Nos. 8-16 on the floor plans for the building 8 Council Street).

The address number for a sub-address site shall not consist of the primary or alternative address number on its own.

Sub-address numbers shall be applied in a logical sequence and within a primary address site shall be unique regardless of the type of the address.

The primary and sub-address numbers are to be positioned on the site prior to the issue of the Occupation Certificate.

Any variation to the above premises numbering requires a new application to be lodged with Council.

124. WAVERLEY DIGITAL MODEL

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

- (a) A digital model of the building must be generated at a scale of 1:1 with units of measurement in metres and include the following:
 - (i) a building envelope which includes all elements affecting shadow analysis;
 - (ii) accurate placement of glazing, balconies, roof pitches, terraces, roof services and any other prominent external design features;
 - (iii) a ground level terrain showing accurate RLs extending to site boundaries.

- (b) All models must be generated in accordance with Council's Guidelines: Submitting Digital 3D Models. Further information and technical requirements can be obtained from Council's E-Planning (3D Modelling) Officer, Shaping Waverley.

Notes:

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

125. FIRE SAFETY WORKS

The Occupation Certificate shall not be released by Council or an accredited certifier, until all fire safety works are completed and a Final Fire Safety Certificate has been submitted to Council, certifying that each essential fire safety measure specified within the current Fire Safety Schedule:-

- (a) has been assessed by a properly qualified person; and
- (b) has been found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building for which the Certificate is issued.

126. ENTRY AND EXIT OF VEHICLES

Vehicles entering and exiting the basement car park shall do so in a forward direction at all times.

127. INTERNAL RAMP - SPEED HUMP AND STOP SIGN

A speed hump and STOP sign shall be installed inside the site on the exit portion of the internal driveway ramp.

128. PARKING SPACES

- (a) All resident car parking spaces shall be clearly delineated and numbered.
- (b) Parking allocations shall be in accordance with conditions of this consent.
- (c) A maximum of one car space shall be allocated to any residential unit to ensure equitable allocation overall.
- (d) Should the building be strata titled in the future, car parking spaces shall not be independent lots, but rather part lots attached to units.
- (e) The bicycle and motorcycle parking spaces are to be allocated and marked signposted.

All car, motorcycle and bicycle spaces are to be marked and allocated prior to the issue of any Occupation Certificate.

129. PARKING PERMITS

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

130. NOISE ATTENUATION CERTIFICATE

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

- (a) Engage and an Australian Association Acoustic Consultant to conduct a test for noise attenuation to classify the buildings performance on the National Star Rating Table and to confirm compliance with 'Noise Attenuation in Residential Flat Buildings' condition.
- (b) Lodge with Council for public record, the noise attenuation star rating results.

131. NOISE – PLANT AND EQUIPMENT

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

132. CERTIFICATION OF MECHANICAL EXHAUST

The mechanical exhaust ventilation system is to comply with the approved plans and specifications in addition to Australian Standards AS 1668 (part 1, 1998 and part 2, 2012). A Certificate of Test together with a copy of the final test figures is to be submitted by a competent person and approved by the Principle Certifying Authority prior to the issue of the Occupation Certificate.

133. SLIP TESTS OF COMMON AREAS

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

134. TACTILE NUMBER IN LIFT

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

135. USE OF ROOF

The roof shall be non-trafficable and accessed for maintenance purposes only.

136. RESIDENTIAL FLAT BUILDINGS - BALCONIES NOT TO BE ENCLOSED

The private open balconies attached to the proposed building are not to be enclosed within the consent of Council so as to not compromise the architectural design of the building.

137. TELECOMMUNICATION FACILITIES ON MULTI-UNIT DWELLINGS

Telecommunication facilities on new multi-unit dwellings are opposed. The Owners' Corporation is prohibited from entering into leasing agreements with telecommunication companies to erect or install any commercial telecommunication device (other than for the explicit use of the occupants) on the building.