



## Report to the Sydney City East Planning Panel

### COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018 SCL068
<b>DA Number</b>	DA-155/2018
<b>LGA</b>	Waverley Council
<b>Proposed Development</b>	Demolition of the existing building and construction of a new 19-storey mixed use building (ground level retail with residential apartments above) and basement parking
<b>Street Address</b>	55 Grafton Street, Bondi Junction
<b>Applicant/Owner</b>	Coonara Developments P/L
<b>Date of DA lodgement</b>	8 May 2018
<b>Number of Submissions</b>	Original scheme: 15 individual submissions and petition containing 161 signatures Amended scheme: 3 submissions
<b>Recommendation</b>	Deferred Commencement subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Clause 3 – General Development that has a capital investment value of more than \$30 million. The Capital Investment value of the proposal is \$58,473,539
<b>List of all relevant S4.15 (1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy 55 - Remediation of Land</li> <li>• State Environmental Planning Policy 65 - Design Quality of Residential Flat Development</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Waverley Local Environmental Plan 2012</li> <li>• Waverley Development Control Plan 2012</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Architectural Plans</li> <li>• Statement of Environmental Effects</li> <li>• Copy of submissions</li> <li>• Clause 4.6 statement</li> <li>• Letter of Concurrence – Sydney Trains</li> </ul>
<b>Report prepared by</b>	Kylie Lucas
<b>Report date</b>	5 December 2019

#### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 summarised, in the Executive Summary of the assessment report?

**Yes**

**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**

**Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes**

## 1 EXECUTIVE SUMMARY

The development application, as amended seeks consent for the demolition of the existing commercial/office building and other structures on the site and the construction of a 19-storey shop top housing development and commercial premises, also known as a mixed use development. The proposal includes retail and commercial uses at ground level, commercial units up to Level 04 fronting Hegarty Lane and 106 residential dwellings on Levels 1 to 18. The proposal also includes a three level car park (partially underground) with vehicular access from Grafton Street providing 111 car spaces.

The site is zoned B4 Mixed Use and shop top housing and commercial premises are permitted uses in the zone. The site has the highest development standards in the Local Government Area, with a building height limit of 60m and floor space ratio (FSR) of 6:1. The proposal complies with the maximum GFA permitted for the site, but proposes a 15% exceedance to the height control to accommodate the lift overrun, plant, common open space and a portion of the building at the front (northern aspect of the site to Grafton Street). A statement addressing Clause 4.6 has been submitted by the applicant and is available for the Panel's consideration as the consent authority. Minor building height exceedances responding to the topography of the land and to provide quality roof top open spaces have been accepted on other sites within the Bondi Junction Area.

Vehicular access to the site is proposed via Grafton Street. Due to the excavation constraints of the site and train line below, the parking is located below the level of Hegarty Lane and to the rear of the proposed double height retail premises on Grafton Street, concealing the parking within the street frontages. This is considered to be an effective means of providing parking on a constrained site that allows active uses at the street frontages without impacting detrimentally upon the urban design and public domain.

The proposal has been assessed against the principles of the SEPP 65 (Design Quality of Residential Apartment Development) and amended where appropriate to address feedback from Council's Design Excellence Panel. The building has been designed to meet the requirements of the Apartment Design Guide (ADG) meeting the key guidelines relating to solar access, cross ventilation and private open space requirements of the development.

The configuration of the units meets the guidelines for room sizes, storage and layout and has acceptable amenity. The development provides several areas of common open space for residents of the development which meet the ADG benchmark.

The visual separation controls are predominantly met, and acceptable on merit following the guidance of the ADG. The proposal seeks to replace a smaller, broader building with close setbacks to all boundaries, with a taller building, setback further from the side, front and rear boundaries to respond

to the guidance of the ADG. The urban form of the building complies with the controls of the Waverley Development Control Plan 2012 (DCP) by providing a six-storey podium (or street wall) and 6m setback from the street fronting Grafton Street. A lower podium is proposed to Hegarty Lane to address bulk and scale which has been amended several times to increase the retail and commercial floor space.

A letter of concurrence from Sydney Trains for the works which are over the rail lane (train line) was provided to Council. Deferred commencement conditions require the satisfaction of a number of matters for Sydney Trains which are included in Appendix A.

Submissions from fifteen properties and a petition containing 161 signatures were received when the original proposal was notified. The amended proposal was subsequently notified and three submissions were received. The matters raised are discussed in this report and can be summarised to relate to overdevelopment of the Bondi Junction area, loss of existing commercial building, height, overshadowing, views, privacy, parking, traffic and nuisances during construction. 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 proposal has been considered against Section 4.15 of the Environmental Planning and Assessment Act 1979 and based on the assessment below is recommended to be granted a deferred commencement consent.

## 2 PREAMBLE

### 2.1 Site and Surrounding Locality

The site is identified as Lot 2 in DP 1073908, known as 55 Grafton Street, Bondi Junction. It is located on the southern side of Grafton Street with rear lane frontage to Hegarty Lane.

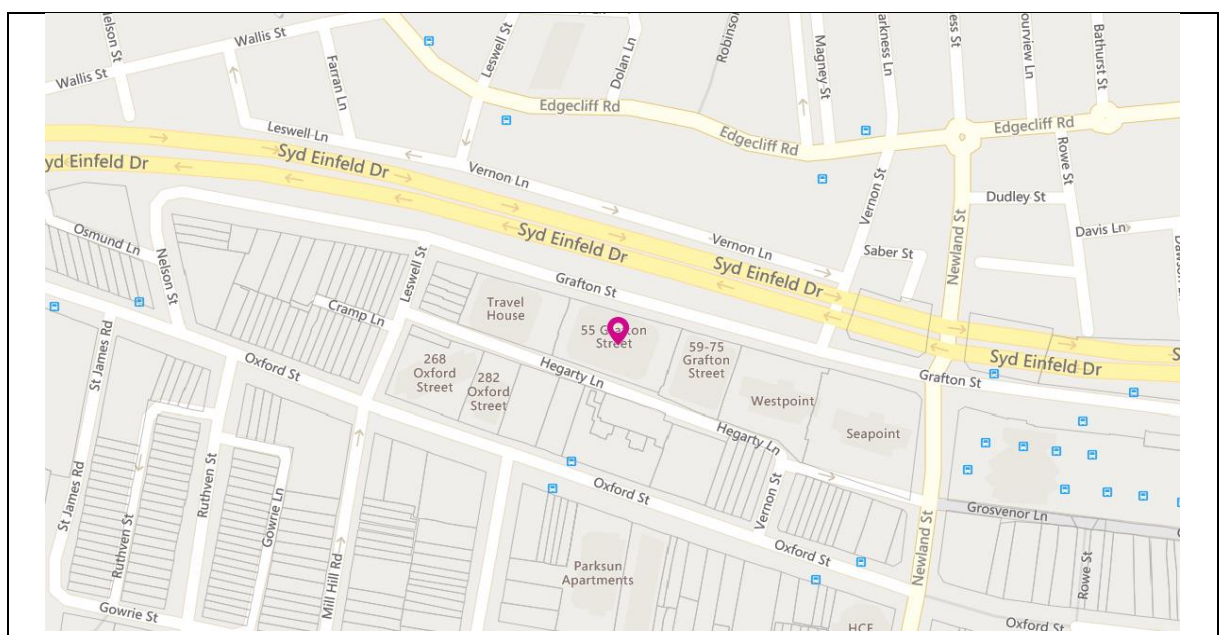
The site is rectangular in shape with a primary northern frontage to Grafton Street of approximately 61.05m and a secondary southern frontage to Hegarty Lane of approximately 59.65m. The topography of the site slopes west down to east, whereby the east portion of the site fronting Grafton Street is elevated above street level. The site has an area of 2070m<sup>2</sup>.

The site is presently occupied by a nine-storey building containing commercial offices and a café at ground level fronting Grafton Street. Vehicular access to the site is from both Grafton Street and Hegarty Lane to three levels of basement parking containing 128 car spaces.

Directly beneath the site, runs the train line (between Edgecliffe and Bondi Junction train stations) and its associated zone of influence. This has a direct impact on the design of the building, in particular the carpark and basement. Accordingly, the application requires concurrence from Sydney Trains.

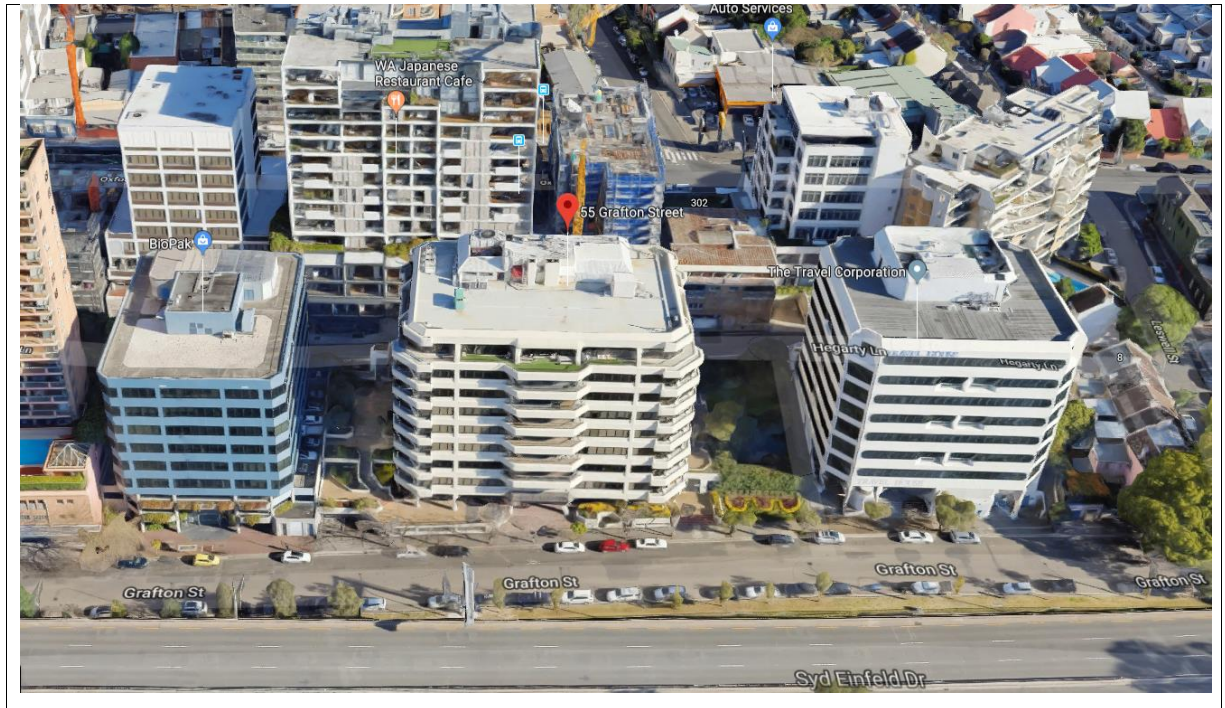
Across the road to the north of the site is Syd Einfeld Drive (a classified road - freeway) at an elevated height above Grafton Street. To the west of the site is an eight-storey commercial building (35-43 Grafton Street). While, to the east (59-75 Grafton Street) is a nine-storey commercial building which has recently been granted consent for the construction of a 19-storey shop top housing development (refer to Section 2.2 – *Relevant History*). To the south of the site, separated by Hegarty Lane, is a shop top housing development fronting Oxford Street (310-330 Oxford Street) with retail at ground, both on Oxford Street and Hegarty Lane, with residential apartments above.

The site is located within the Bondi Junction Commercial Precinct. The Bondi Junction area has an evolving character as smaller buildings are being replaced with mixed use developments with ground and first floor commercial uses and residential apartments above in response to the zoning uplift in the 2010 and 2012 Local Environmental Plans.

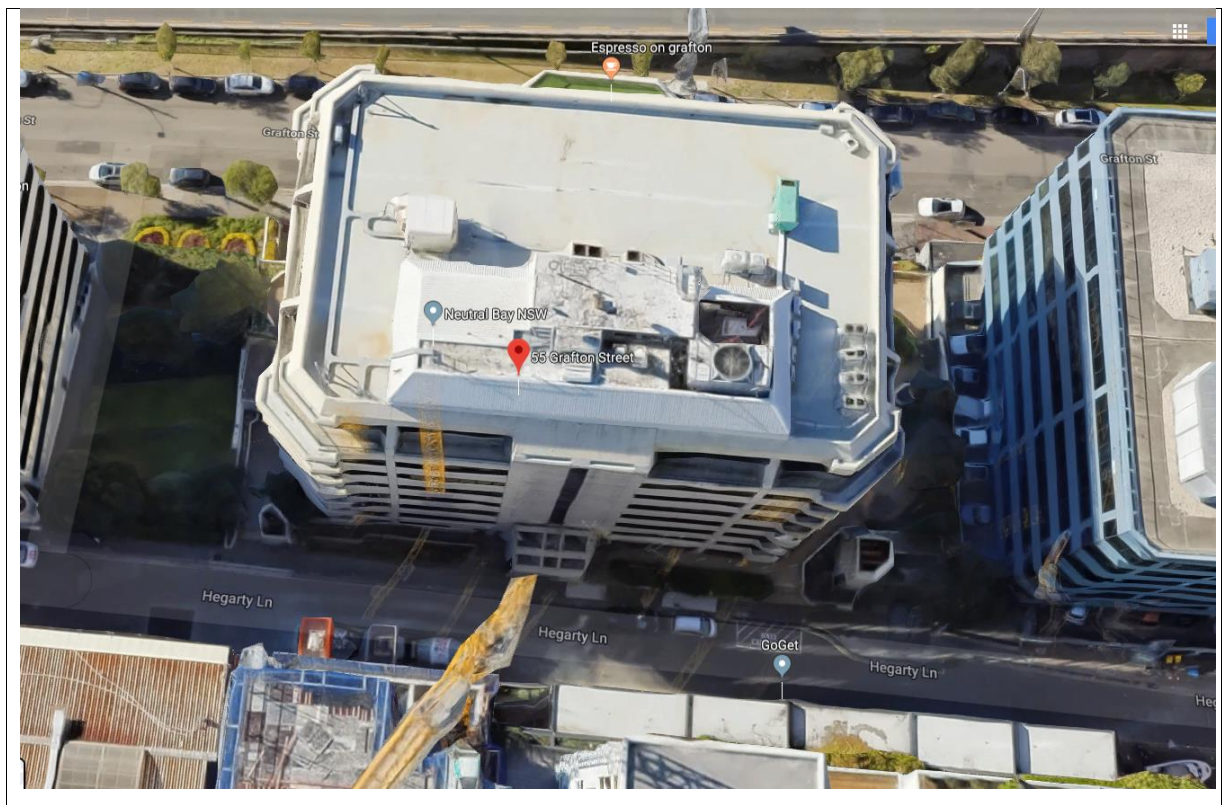


**Figure 1: Subject site location**

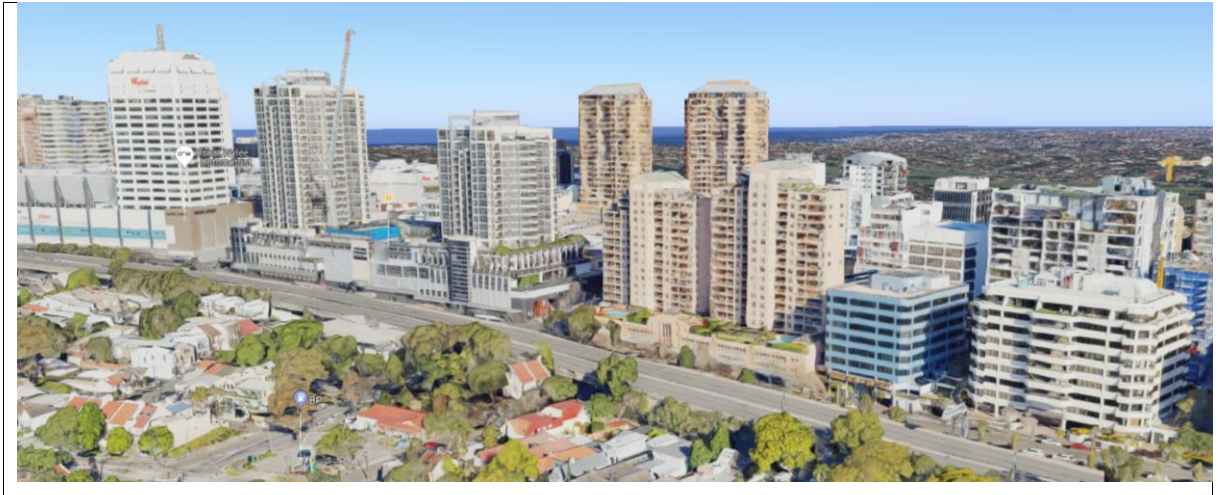




**Figure 2:** 3D image of the site (Source: Google Maps)



**Figure 3:** Aerial view from Hegarty Lane (Source: Google Maps)



**Figure 4:** Aerial view of buildings fronting Grafton Street on the edge of Bondi Junction. The subject site is the building in the front row on the right (Source: Google Maps)

## 2.2 Relevant History

The following history is relevant to the subject proposal:

**PD-52/2017:** Pre DA for demolition of existing building to construct shop top housing. The advice provided within the Pre-DA letter related to the following:

- Compliance with height and FSR development standards.
- Design excellence.
- Provision of a six-storey podium form and setbacks.
- Active frontages and common open space – retail spaces and activation must be provided to Hegarty Lane.
- Increased commercial floor space is required.
- Investigate through-site links.
- Dual vehicular entry points from both Grafton Street and Hegarty Lane cannot be supported. Only one vehicular access point is to be provided for the site.
- Waste and storage collection - garbage collection must occur from within the site (on-site collection).
- Environmental and sustainability matters in particular, the proposal should be designed to obtain a minimum of a four star Green Star Certified Rating in accordance with the Green Star Design tools or equivalent certification.
- Material and finishes need further detailing, particularly in relation to the side and rear elevations.

**DA-155/2018** (the subject application): After preliminary assessment, the application was deferred on 24 August 2018 for the following reasons (summarised):

- Given that the proposal removes 9 storeys of commercial floor space in the Bondi Junction Centre, additional commercial space is to be provided within the building in order to achieve the objective of the B4 Zone which is *“to provide a mix of compatible uses, to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling” and “to encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core”*.
- Building envelope and urban design.

- The building should comply with the height development standard of 60m.
- The proposal results in an undefined and poor streetscape along Hegarty Lane that lacks a consistent height and alignment with the existing and proposed built form along the lane and is contrary to the urban form controls and objectives for Bondi Junction Centre as stipulated in the DCP.
- The ground floor should be set to the Grafton Street boundary rather than setback.
- Include winter gardens in gross floor area.
- Provision for more generous communal open space around the podium or on the roof, rather than extravagant private open space. This will also be of benefit for more generous solar access to the residents of units in either the north-west or south-west corners that receive only limited morning or afternoon sun.
- Implementation of recommendations within the Wind Report.
- Entries and awnings need to be redesigned.
- Façade design on the east, west and south elevations should be improved.
- A single cross-over from Grafton Street can be considered as opposed to Hegarty Lane.
- The proposed 'Truck Parking' zone on Hegarty Lane is not supported and provisions are to be made for on-site waste collection instead via a loading dock. The loading dock is to be large enough to cater for Council's service vehicles.
- Waste.
- Sustainability.
- Public art - introduction of artwork or graphic mural to the long Hegarty Lane elevation, also helping to activate the public domain both day and night.
- Stormwater.
- Matters to address SEPP 55 in relation to contamination.

Amended plans were received on 1 May 2019 which did not address all of the relevant matters. The application was then deferred again to address built form, including height, parking and traffic, sustainability, landscaping, amenity and documents requested by Sydney Trains. The final documents and further information were received on 27 September 2019 with the documents for Sydney Trains received 11 November 2019.

The amended plans dated 27 September were notified to surrounding properties.

During the final assessment of the amended proposal, a minor adjustment to the position of the plant at the topmost level of the building was made to reduce overshadowing impacts upon surrounding properties. As such, further amended plans were received by Council on 5 December 2019 and these plans are presented to the Panel and form the subject of the assessment within this report. As the plans reduce impacts, these did not require renotification.

**DA-482/2017** for the demolition of an existing nine-storey commercial building and the construction of a 19-storey mixed use building was approved on the adjoining site to the east, **59-75 Grafton Street**, by the Sydney Eastern City Planning Panel on 2 May 2019.

## 2.3 Proposal

The amended proposal seeks consent for the demolition of all structures on the site and the construction of a 19-storey shop top housing development comprised of 106 dwellings, four retail tenancies and three storeys of commercial office space in a rear podium. The mix of apartments and commercial premises constitutes:

- 8 x studio apartments



- 28 x 1-bedroom apartments
- 48 x 2-bedroom apartments
- 22 x 3-bedroom apartments
- 2 x retail shops fronting Grafton Street
- 2 x retail shops fronting Hegarty Lane
- 3 x commercial/office premises on Hegarty Lane.

The proposal will provide 314m<sup>2</sup> of retail floor space, 373m<sup>2</sup> of commercial space and 11,733m<sup>2</sup> of residential floor space with a total of 12,420m<sup>2</sup> overall.

The proposal also includes the construction of three levels of basement parking, providing 111 car parking spaces comprised of 85 resident spaces, 11 accessible spaces and 15 visitor spaces. In addition, the basement car park provides 2 loading spaces, 23 motorcycle spaces, 124 bicycle spaces, end-of-trip facilities, waste and storage areas. Access to the car park is provided from Grafton Street via a double width driveway.

The proposal includes associated landscaping including communal terraces on the Level 19 rooftop and on the Level 5 podium level. The podium level communal open space provides a swimming pool and toilet/change facilities. A private swimming pool is also provided at this level for the use of a single unit. Communal open space is also provided on Level 01 to the rear of the podium (over Hegarty Lane).





**Figure 5:** Photomontage from Grafton Street (Source: applicant submission)



**Figure 6:** Photomontage of Hegarty Lane treatment (Source: applicant submission)



**Figure 7:** Photomontage of Hegarty Lane treatment (Source: applicant submission)

### 3 ASSESSMENT

The following matters are to be considered in the assessment of this development application under section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).

#### 3.1 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.

##### 3.1.1 SEPP (Building Sustainability Index – BASIX) 2004

A BASIX Certificate has been submitted with the development application.

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

##### 3.1.2 SEPP 55 Remediation of Land

A detailed site assessment has been provided concluding that the site is suitable for the proposed future land use. Therefore, on this basis, the requirements of SEPP 55 – land contamination have been met. Conditions of consent are provided in Appendix B in relation to land contamination.

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

The original application was referred to the Design Excellence Panel (DEP) on 16 July 2018 with draft amendments being referred to the DEP meeting of 10 December 2018. Amended plans were received in May 2019 and were referred to the DEP meeting of 20 May 2019. After this meeting, the application was deferred for a second time and amended plans and information were requested, based in part, upon the comments of the DEP. Further amended plans (which are the subject of the assessment within this report) were received by Council on 27 September 2019 however these were not referred to the DEP, given previous advice of DEP still applies and/or can be addressed via Council's own assessment.

The following table contains the comments of the DEP with regard to the nine design quality principles under SEPP 65 from the meeting of the 20 May 2019. A planning response in regards to how the amended plans address the comments of the DEP is provided below each principle.

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

Principle
<b>Principle 1: Context and Neighbourhood</b>
<i>As previously noted, the Applicant has proposed a 'highly articulated façade' on top of a podium in response to the local topography, and in consideration of neighbouring sites, significant district views and environmental conditions as well as the route of the Eastern Suburbs railway tunnel.</i>
<i>There has been a concerted effort to achieve an improved interface with Hegarty Lane responding to Waverley Council's strategic public domain plan for mixed use activities in the precinct. However, the Panel agrees with the Council's opinion that the proposal for the distribution of floor space is driven by the optimisation of north facing units, and this results in:</i>

## Principle

- a wider building which reduces northern sun access to surrounding buildings and the lane
- DCP setbacks breaches
- overshadowed common outdoor areas that are largely in undercroft areas
- inconsistent height and alignment of buildings to Hegarty Lane
- a reduction of ground levels at-grade with finished footpath levels
- and is contrary to the urban form controls and objectives for Bondi Junction Centre as stipulated in the DCP.

*There remains a significant proportion of eroded podium to Hegarty Lane. The slices of landscape and sun on the east and west ends of the site are considered positive for their potential to brighten the lane however there also needs to be a more meaningfully-activated façade and commercial space that addresses the lane within the DCP podium envelope. The landscaped areas could be consolidated and framed on the east and west and more commercial space provided in the undercroft areas.*

*A wider footpath dedication along the Hegarty Lane boundary should also be considered particularly at the pinch point of the car parking cross-over, to increase amenity for the increased population proposed on the site.*

**Planning comment:** The amended plans address the comments of the DEP as follows:

- The amended proposal complies with the setback controls of the DCP and the generally with the separation distances of the ADG.
- The amended proposal improves the interface with Hegarty Lane by removing the vehicular entry and by increasing both the retail and commercial premises on this frontage.
- The communal outdoor spaces have been increased in areas of the building with greater solar access ie, the roof level and the eastern side of the level 5 podium.
- Increase in the commercial premises width in Hegarty Lane and responding appropriately to the adjoining approval at 59-75 Grafton Street.
- The amended proposal responds appropriately to the urban form controls of the DCP.

## Principle 2: Built Form and Scale

*The proposed tower breaches both the 60m LEP height control (by 7.75m) and the DCP setbacks. These breaches are not supported by the Panel as they cause negative impacts on the surrounding public realm and reduce the amenity to surrounding apartments, creating a poor precedent in a high density centre that is Bondi Junction.*

*There is also a discussion to be had about the FSR. The removal of the winter-gardens has helped with floor space compliance however the acoustic report indicates that the podium balconies will have excessive road noise and up to 12 floors will also be adversely affected. All north facing rooms will need acoustic treatment to openings. This issue needs to be resolved with Council however the Panel suggests that greater environmental design input is required to holistically solve acoustics, thermal comfort, reduced energy usage and amenity.*

*Although the architectural modelling of the tower and the podium elements are improving the following issues remain:*

## Principle

- *The east, west and south-west elevations are predominantly fixed glass with high solar heat gain exposure (it is noted that the Applicant advised they were not averse to the introduction of sun control systems).*
- *The L5 plant room obstructs the provision of natural light to lift lobby*
- *The tower exceeds the DCP 24m maximum length of a building – being approximately 36-39m. The amount of articulation has been improved however the impact of the wide tower is excessive.*
- *The proposed width of the tower reduces view sharing opportunities for existing buildings to the south.*
- *The bridges on Levels 2, 3 and 4 that give access to pairs of apartments are considered to be too wide and impact the common outdoor areas below. They are currently not dotted correctly over the outdoor area. As shown, they have potential to increase noise issues to adjacent bedrooms. These bridges need to be minimised in size and any external people-gathering encouraged on the podium level.*
- *The proposed glazing and balustrade details are unclear, as are the window operations, if any. Detailed façade sections should be provided through the varying conditions.*
- *Two building sections have been provided however more long and short sections are required to capture the complexities of the proposal - particularly the podium level.*
- *The elevations are unclear.*
- *The residential lobby on Grafton St is effectively 18 metres deep from the shopfronts and an average of 6m wide. The Panel considers that more design input is required to make this large space convincing, useful and a positive contribution to the street front.*
- *The relationship of the podium to the neighbours on Hegarty Lane and the DCP requirements.*

**Planning comment:** The amended design has reduced the bulk and scale of top of the proposed building to ensure that any variation to the height control relates only to non-habitable space (consistent with other building towers in the Bondi Junction precinct).

In terms of acoustics for the podium, the podium apartments are double sided and are not dependant on fresh air intake solely from the Grafton Street frontage. An addendum to the Acoustic Report was provided which states the following:

*Due to the traffic noise impinging on the northern facade, the ISEPP Guideline nominates that those rooms should be provided with alternative ventilation i.e. ventilation via openings to non-noise affected facades, through attenuated paths, or mechanically ventilated. This does not mean that all glazing on the northern facade needs to be fixed but alternative non-noise affected openings need to be relied upon to provide fresh air to the noise affected apartments...*

*To further reduce the traffic noise levels impinging on the northern noise affected apartments and improving the amenity to these apartments beyond the requirements of the SEPP (Infrastructure) 2007, the balcony soffit is proposed to be lined with acoustically absorptive products.*

The applicant has also advised that the times of use of the communal open space will be restricted so as to limit noise impact on usual night time bedroom use as would be the case for all communal spaces. A condition to this effect is included in Appendix B.



## Principle

The applicant has stated that more than 77% of the northern façade is formed by recessed balconies that are protected by direct solar access by the facade indentation. The slab edges on the northern façade have variable angled projections that further protect the remaining 23% of forward glazing. Full height angled vertical louvers are also included on the western façade.

The width of the tower is discussed in subsequent sections of this report and is considered acceptable given the streetscape context and compliance with other controls of the ADG and the DCP.

The width of the walkway bridges to the rear of the podium and the residential lobby are considered appropriate. The remaining issues of the DEP were adequately resolved by the amended plans.

## Principle 3: Density

*The issue of the amenity of the open balconies as opposed to winter-gardens needs to be resolved. Looking at the acoustic report the Panel prefers the performance of the winter-gardens. This could affect the FSR calculation. The Panel would also prefer to see a more slender tower that at least meets the height and setback requirements. Any argument for increased density needs to be supported by excellent urban design, appropriate response to the context, high quality architectural, environmental and landscape design, good amenity to all dwellings and reasonable impacts on neighbours.*

**Planning comment:** The Acoustic issues and the width of the tower is discussed elsewhere in this report. The proposal complies with the FSR development standard.

## Principle 4: Sustainability

*Design excellence extends to environmental design, the reduction of energy use and provision of comfort. The design currently does not display good passive solar design principles in relation to these principles.*

*Good cross ventilation is indicated however the areas of fixed glass and the road noise issues will reduce the occupants' ability to enjoy the benefits of cross-venting.*

*Basix and JV3 compliance does not ensure good passive solar design. Windows conduct approximately 5 times more heat than walls which in turn leads to greater need for air-conditioning. Double glazing will retain the heat which is helpful in winter but not so in summer. The SHGC and U-Values of the glass are not evident in the design documentation. Nevertheless, reduced areas of solar heat gain and increased external sun-shading are the best solution. Sunshading is needed on the north, west and south-west glass in particular and should be designed to respond to the requirements of each specific orientation. Interior shades have a relatively small impact, but have the important role of controlling glare and providing privacy.*

*If no sunshading is provided, the glazing will most likely need to be heavily tinted at least to the west and possibly to the north to comply to the energy requirements and the building will not look as it does in the montages.*

## Principle

*The Panel previously noted the large roof area available should allow for inclusion of p/v solar cells for power generation to common areas. A very small array has been provided north of the lift tower.*

*The Panel recommends that Council seeks independent advice on the environmental design and probable performance of the proposal.*

*The Panel remains concerned about Level 1 to 4 units with bedrooms facing the internal communal open spaces with potential noise issues in conflict with openable windows. The mechanical plant areas indicate that the building is intended to be air-conditioned, contrary to the understanding from the previous proposal that natural ventilation only was to be part of the development's sustainability credentials.*

**Planning comment:** Fixed glass, environmental design and the road noise issues are discussed elsewhere in this report. The amended plans provide p/v solar cells to the roof level.

The applicant has advised that the times of use of the communal open space will be restricted so as to limit noise impact on usual night time bedroom use as would be the case for all communal spaces. A condition to this effect is included in Appendix B.

The BASIX certificate indicates that air-conditioning will be provided within the building.

## Principle 5: Landscape

*Some improvement to the landscape quality of the podium has been achieved with the redesign of the communal open space terraces, but the Panel still has concerns about the quality of the internal courtyards that will be shaded for much of the day. It would be expected that more detailed solar access diagrams should be part of any further submission to clarify just what is achievable.*

*External common circulation spaces, bridges close to the east and west boundaries and pool areas have the potential to create privacy and noise issues for neighbours, and light spill at night. These issues should be discussed with Council.*

*The provision of large street trees should be discussed with Council.*

*The balcony landscaped areas that are beyond handrails need to be considered for maintenance and safety. To be effective planter boxes, these would need and have suitable dimensions (width, soil depth, drainage and irrigation spatials etc).*

*The paved terrace areas for the private apartments on the podium seem excessive and more planted areas should be considered to reduce heat and contain the number of people that could use the space in consideration of apartments above that would be affected by noise.*

**Planning comment:** The walkway/bridges to the rear podium provide access to a maximum of two units on each eastern and western limit, providing limited use overall. The walkway/bridges are set back from both side boundaries. It is considered that these will not have unreasonable privacy impacts upon adjoining properties to warrant further screening which may impact upon the Hegarty Lane elevation.

## Principle

The communal pool is located adjoining similar communal open space approved for the adjoining building to the east, 57-59 Grafton Street. The similarity of the uses will ensure that amenity impacts are minimised.

Extensive landscaping is included over the podium, both front and rear. The planters are considered accessible.

## Principle 6: Amenity

*Generally the apartments are well planned however they have the potential to overheat in summer and some have excessive glass areas.*

*The Panel was supportive of the revised allocation for communal open space that now included terraces on the eastern end of both the L19, and L5 podium. Any noise issues should be discussed with Council. The applicant agreed to provide the lap pool area with change and unisex amenities.*

*Inclusion of an internal community room for resident meetings or functions was previously suggested by the Panel, and there appears there could be scope for this allocation at the eastern end of the commercial space on L4, with access from the open corridor.*

*Communal open space in the south east portion of the site should have universal access. Apartment 1.11 may not comply to Access to Premises requirements – a very small adjustment is required.*

*Level 5 plans do not indicate how occupants access the private terraces - no doors are indicated on the plans.*

**Planning comment:** The majority of issues raised are discussed previously in this table and have been addressed by the amended plans.

Communal toilet facilities have been provided adjacent to the communal pool. The communal open space on Hegarty Lane, both east and west sides, can be accessed by all residents. Council requested that access to the communal open space areas be restricted by the commercial tenants and customers due to Crime Prevention through Environmental Design (CPTED) principles.

A community room has not been provided however this is not a requirement of any controls and is therefore not enforceable. The remaining issues have been corrected in the amended plans.

## Principle 7: Safety

*Footpath widening at the crossover on Hegarty Lane should be considered.*

**Planning comment:** The amended plans have removed the vehicle entry, and crossover, from the plans.

## Principle 8: Housing Diversity and Social Interaction

## Principle

*As previously noted by the Panel, the main foyer off Grafton Street is generous, and it is assumed there would be some provision to encourage social interaction. The design for this area should be progressed and form part of the DA review.*

**Planning comment:** A condition is recommended to ensure that furniture is included in this area for social interaction.

## Principle 9: Aesthetics

*The performance of the façade needs to be reviewed before any further comments on the aesthetics can be made by the Panel.*

*Large 1:20 wall sections would assist understanding of how the various material finishes and details will be allocated to the facades, and cross referenced to the indicative external finishes with a colour palette.*

*The Panel was encouraged by the Applicant's Public Art Plan approach, and potential for introduction of artwork to the long Hegarty Lane elevation.*

**Planning comment:** The proposal includes public art on both street frontages of the building. Sculptural screens are included within the lobby on the Grafton Street frontage and to the ceiling and upper walls of the Hegarty Lane lobby and to the commercial façade.

The aesthetics of the design are considered to be complementary to the emerging character of buildings within the precinct using a combination of contemporary materials and finishes including precast concrete, external louvres, glazing and dark cladding. The elevations and sections clearly show the materials and finishes to be used and as such, this matter is considered resolved by the amended plans.

## 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.

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



An assessment against the provisions within the ADG is provided in the table below and these controls have been deleted from Table 5 relating to the DCP as they are no longer relevant.

**Table 2: Apartment Design Guide**

Design Criteria	Compliance	Comment
<b>Part 3 Siting the development</b>		
<b>3A Site analysis</b>	Yes	The application and proposed building has considered the site, local and wider context.
<b>3B Orientation</b>	Yes	The proposed building has been orientated and designed to relate to the shape of the site, location of neighbouring buildings and public domain.
<b>3C Public domain interface</b>	Yes	The proposed building provides a successful interface with the public domain and will improve the character and quality of the streetscape, particularly to the rear lane.
<b>3D Communal and public open space</b>  ADG control: Minimum of 25% of site Minimum of 50% direct sunlight to the principal usable part on winter solstice	Yes	<p>The roof top area provides 195m<sup>2</sup>, Level 01 provides 130m<sup>2</sup>, Level 02 provides 70m<sup>2</sup> and Level 05 provides 123m<sup>2</sup> of communal open space. Level 05 communal open space includes a lap pool. The proposal provides a total of 518m<sup>2</sup>, equating to 25% of the site.</p> <p>The common open spaces at the roof level and Level 05 equate to 61% of the communal open space and are located on the northern and eastern side of the building and will receive 2 hours of sunlight complying with the ADG.</p> <p>All communal open spaces areas are accessible.</p>
<b>3E Deep soil zones</b>  ADG control: 7% of the site, deep soil zones should be provided	No	<p>As the proposed building contains ground floor retail and first floor commercial uses, compliance with the deep soil zone control is not practical as the building has 100% site coverage.</p> <p>Despite the site constraints, soft landscaping is proposed around various parts of the building, including communal residential areas at levels 01, 02, 05 and at the roof level. The extent of the deep soil zones is acceptable for the site, development type and locality.</p>
<b>3F Visual privacy</b>  Min separation distances from buildings (windows	No	<ul style="list-style-type: none"> <li>Podium (Hegarty Lane): Approximately 15m from residential windows (bedroom) to residential balconies opposite.</li> </ul>

Design Criteria	Compliance	Comment
and balconies) to side and rear boundaries: <ul style="list-style-type: none"> <li>Up to 12m (4 storey) – 6m habitable &amp; 3m non-habitable</li> <li>Over 25m (9+ storeys) – 12m habitable &amp; 6m non-habitable</li> </ul>		<ul style="list-style-type: none"> <li>Tower: Generally 12m setbacks from side boundaries with minor encroachment by the side edges of the balconies to the rear apartments.</li> <li>Podium (Hegarty Lane): Approx. 9m from commercial in Hegarty Lane to residential balconies opposite (310 Oxford Street and 302 Oxford Street).</li> </ul> <p>Refer to detailed discussion following this table.</p>
<b>3G Pedestrian access and entries</b>	Yes	All pedestrian access points and entries are connected to, and address, the public domain, are easily identifiable and provide a strong connection with the streetscape.
<b>3H Vehicle access</b>	Yes	Vehicular access is provided from Grafton Street as per the existing building on the site and is considered the most appropriate point being at the lower end of the site, minimising pedestrian conflicts, and is cohesive with the existing streetscape.
<b>3J Bicycle and car parking</b>  106 apartments: <ul style="list-style-type: none"> <li>8 studio</li> <li>28 x 1-bed</li> <li>48 x 2-bed</li> <li>22 x 3-bed</li> </ul> <u>RMS Guide</u> Metropolitan Regional (CBD) Centres: <ul style="list-style-type: none"> <li>0.4 car spaces per 1-bed unit.</li> <li>0.7 car spaces per 2-bed unit.</li> <li>1.2 car spaces per 3-bed unit.</li> <li>1 car space per 7 units (visitor parking).</li> </ul>	Yes	<p>The proposed development falls within the design criteria of Objective 3J-1 and the resident and visitor car parking requirements set out in the Guide to Traffic Generating Development 2002 are applicable to the residential component of the building, as they are less than the requirements of the DCP.</p> <p>The RMS guide requires a <b>minimum</b> of 89 residential car spaces for the proposed development comprised of the following:</p> <ul style="list-style-type: none"> <li>74 residential spaces</li> <li>15 visitor spaces</li> <li><b>Minimum of 89 car spaces required</b></li> </ul> <p>The proposal provides:</p> <ul style="list-style-type: none"> <li>96 resident spaces (including 11 accessible)</li> <li>15 visitor spaces</li> <li><b>Total of 111 car spaces proposed</b></li> </ul> <p>It is noted that were the DCP to apply to the development, the proposal would require 123 resident spaces and 21 visitor spaces. In this regard, the additional parking spaces beyond that required by the RMS are considered acceptable.</p>



Design Criteria	Compliance	Comment
<p><b>4D Apartment size and layout</b></p> <p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <li>• <i>Studio = 35 m<sup>2</sup></i></li> <li>• <i>1 Bed = 50 m<sup>2</sup></i></li> <li>• <i>2 Bed = 70 m<sup>2</sup></i></li> <li>• <i>3 Bed = 90 m<sup>2</sup></i></li> <li>• <i>Add 5m<sup>2</sup> for each additional bathroom (above 1)</i></li> </ul> <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> <p>Maximum depth of open plan living layouts is 8m.</p>	Yes	<p>All units have internal areas in excess of the minimum ADG requirements. In this regard, the proposed unit sizes and layout are acceptable.</p> <p>The glazed area to each habitable room is of an acceptable size in relation to the dimensions of the room.</p> <p>The bedrooms have a satisfactory size to meet the intent of the design criteria. All kitchens are separate to the circulation spaces.</p> <p>All of the living areas in each apartment are open plan and do not exceed the 8m criteria.</p> <p>The proposal is consistent with the objectives of this part of the ADG.</p>
<p><b>4E Private open space and balconies</b></p> <p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> <li>• Studio – 4m<sup>2</sup>, no min depth</li> <li>• 1-bed – 8m<sup>2</sup> &amp; 2m depth</li> <li>• 2-bed - 10m<sup>2</sup> &amp; 2m depth</li> <li>• 3+bed - 12m<sup>2</sup> &amp; 2.4m depth</li> <li>• Ground level, min 15m<sup>2</sup> &amp; 3m depth</li> </ul>	Yes	<p>All apartments are provided with a balcony or courtyard accessed from the main living areas which meets the minimum requirements of the ADG in terms of area and depth.</p> <p>The design of the balconies and courtyards is integrated into the architectural form, providing articulation to the building, as well as providing casual surveillance to Grafton street. The finishes of the balconies are consistent with the palette of materials in the building overall. Screens or solid side walls are provided to enhance privacy where appropriate.</p>
<p><b>4F Common circulation and spaces</b></p> <ul style="list-style-type: none"> <li>• Max of 8 units accessed off a circulation core on a single level</li> </ul>	Yes	<p>Within the podium the units are accessed via external covered walkways with no more than 2 units being accessed via each walkway.</p> <p>Within the tower no floor contains more than 6 units, therefore the development complies with this control.</p>
<p><b>4G Storage</b></p> <p>In addition to kitchens, bathrooms and</p>	Yes	<p>The proposal provides separate storage within each apartment and storage cages associated with parking spaces within the basement car park. The storage provided meets the</p>



Design Criteria	Compliance	Comment
bedrooms, the following is provided: <ul style="list-style-type: none"> <li>• 1-bed – 6m<sup>3</sup></li> <li>• 2-bed – 8m<sup>3</sup></li> <li>• 3+bed – 10m<sup>3</sup></li> </ul>		requirements and objectives of the ADG. Conditions are to be imposed to ensure compliance in this respect.
<b>4H Acoustic privacy</b>	Yes	<p>An Acoustic Report was provided with the application and has been discussed under Section 3.1.4 of this report.</p> <p>The amended proposal is accompanied by a thorough site analysis that has considered the constraints of the site, conditions and relationship to surrounding buildings and local context. This analysis has considered individual units exposure to acoustic privacy impacts and each habitable room has been designed to protect the acoustic privacy of future occupants and acoustic privacy of surrounding buildings.</p> <p>The amended proposal has adequately considered and addressed the design guidance requirements in 4H of the ADG.</p>
<b>4J Noise and pollution</b>	Yes	<p>An acoustic assessment has been provided to consider the impacts from road and rail tunnel noise and vibration and mechanical plant.</p> <p>Recommendations have been made to minimise impacts from noise which is referenced in the conditions of consent, meeting section 4J of the ADG.</p>
<b>Configuration</b>		
<b>4K Apartment mix</b>	Yes	<p>The proposal includes:</p> <ul style="list-style-type: none"> <li>• 8 x studio apartments (8%)</li> <li>• 28 x 1-bedroom apartments (26%)</li> <li>• 48 x 2-bedroom apartments (45%)</li> <li>• 22 x 3-bedroom (21%)</li> </ul> <p>The proposed apartments will support a wide variety of household types and sizes. The apartment mix is considered appropriate taking into consideration the proximity of the site to public transport options and the high density urban environment.</p>
<b>4M Facades</b>	Yes	The proposed building provides an interesting architectural design with each façade

Design Criteria	Compliance	Comment
		contributing to the visual interest of the building and character of the local area.
<b>4N Roof design</b>	Yes	The roof incorporates a common open space area and services areas and has a cohesive relationship with the overall building design, streetscape and Bondi Junction centre.
<b>4O Landscape design</b>	Yes	<p>The proposed landscaping of the site is diverse with landscaping incorporated at most levels of the building.</p> <p>The street trees along Grafton Street are to be retained and expanded. On the Hegarty Lane frontage extensive landscaping to the communal areas and the roof of the podium are included in the design. At roof level extensive landscaping is also proposed, particularly to the communal open space.</p> <p>The proposed landscaping responds to the conditions of the site and is appropriate in this high density area.</p>
<b>4P Planting on structures</b>	Yes	The landscape plans address the objectives and design criteria in 4P of the ADG.
<b>4Q Universal Design</b>	Yes	A condition is recommended to ensure that 20% of the apartments achieve a benchmark of silver level universal design features.
<b>4S Mixed Use</b>	Yes	This building is mixed use and incorporates active frontages to both streets. The Grafton Street frontage provides only retail space at ground however the Hegarty Lane frontage provides retail at ground and commercial uses up to Level 04.
<b>Performance</b>		
<b>4U Energy</b>	Yes	All apartments within the building incorporate passive environmental design, meeting the cross-ventilation requirements in the ADG. Natural ventilation is incorporated in all apartments reducing the need for mechanical ventilation and climate control. Council's own policy to reduce greenhouse gas reductions by 30% than a Section J compliant building adds to achieving compliance with this guideline.

Design Criteria	Compliance	Comment
<b>4V Water management and conservation</b>	Yes	A BASIX Certificate has been provided with the application which indicates that the proposal will meet the required water target.
<b>4W Waste management</b>	Yes	The application proposes waste collection from within the site from the basement car park accessed via Grafton Street. A detailed waste management plan will be required as a condition of consent.
<b>4X Building maintenance</b>	Yes	The guideline suggests that building design should provide protection from weathering, systems and access for maintenance and materials which reduce ongoing maintenance costs. There is no evidence to suggest that the proposed building could not achieve this through the detailed construction certificate documentation process.

### Separation distances

The subject site adjoins Grafton Street at the front and Hegarty Lane at the rear with windows and balconies predominantly orientated toward these frontages. The DCP controls in Part E1 specifically relate to Bondi Junction and reflect the desired built form in this area. The controls require podiums built up to the street edge on Grafton Street and to a lesser extent, on Hegarty Lane. The tower forms are then to be set back from the podium level on all sides. In this regard, the separation distances between the commercial units built up to Hegarty Lane and the residential balconies in the podium on the opposite side of the lane cannot be met whilst maintaining the desired built form stipulated in the DCP. Notwithstanding, the separation distance of 9m required for commercial to residential within the DCP is complied with. In this regard, the commercial units built up to Hegarty Lane are considered appropriate.

A similar situation arises with the southern setback of the tower form from Hegarty Lane. The ADG requires 12m from the boundary whereas the proposal provides only 6m. However, a 6m setback to the tower form is consistent with the pattern of recent development and approvals within Hegarty Lane. The buildings to the south are separated from the subject site by Hegarty Lane and as such, when the separation distance is taken from the midline of the lane, the proposal would provide 12m separation which is consistent with the rear setback controls of the DCP. This consistency of built form and setbacks is considered more important than strict compliance with the separation distance control particularly given that all windows are secondary windows, slot windows or to bedrooms. In this regard, the separation distances are considered appropriate for the site.

In terms of the separation distances for the tower form from the side boundaries, the majority of the tower is set back 12m from each side however the rear apartments marginally encroach upon the 12m setback by way of angled balconies which extend to within 10.5m of each side boundary at their closest point. The balconies and windows are located opposite pop-out windows orientated away from the subject site on the approved development to the east and a through-site link (used as a park) to the west with the main commercial building on this site being set back 15m from the shared boundary. Additionally, the windows on the western side elevation are provided with angled louvres to ensure

that visual privacy is acceptable upon any future redevelopment of the adjoining western property. Although the edges of the balconies will be within the 12m separation 'zone' this is a minor encroachment that is unlikely to detrimentally impact upon the amenity of any future residential redevelopment upon this site.

Given the above analysis, it is considered that the proposal provides sufficient separation distances from adjoining properties to ensure that visual and acoustic privacy impacts are not unreasonable.

#### **3.1.4 SEPP (Infrastructure) 2007**

The development site is located within the Bondi Junction rail corridor and proposes excavation to provide the basement car park. Therefore, the application was referred to the rail authority, Sydney Trains, pursuant to Clause 59(1) of the Environmental Planning and Assessment Regulation 2000, requesting that concurrence be granted as required by Clause 86 of the Infrastructure SEPP.

A letter of concurrence from Sydney Trains, which included conditions of consent was provided to Council on 3 December 2019. The recommended conditions of deferred commencement and consent are included in Appendix A and B.

The proposal contains residential accommodation and therefore must be considered against Clause 87 *Impact of rail noise or vibration on non-rail development*.

Clause 102 - *Impact of Road Noise or Vibration on Non-Road Development* is also applicable to the site. Under the criteria, residential accommodation adjacent to Syd Enfield Drive (due to traffic volume thresholds) must be considered against this clause and an Acoustic Report addressing the impact of traffic noise subject to the following noise thresholds must be considered:

*If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

An Acoustic Assessment by Renzo Tonin and Associates was provided with the amended application which assesses the impacts of traffic noise and rail vibration upon the proposal. The Acoustic Assessment also assesses the noise impacts of the mechanical plant upon surrounding residential properties. This report concludes the following:

*Our assessment has demonstrated ground-borne rail noise inside the proposed residential dwellings will comply with Department of Planning publication "Development Near Rail Corridors & Busy Roads – Interim Guideline 2008". In addition, our analysis has also shown floor induced vibration within the proposed development due to train pass-bys will comply with the British Standard BS6472:1992 "Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz)" and day and night VDV values set by the DEC guideline as required by the Department of Planning.*

*Noise impacts from road traffic (particularly on Syd Enfield Drive) have been considered and in-principle treatments for the control of traffic noise intrusion have been presented for*

*compliance with the SEPP (Infrastructure) 2007 and DoP Guideline 2008. The assessment is based upon open balconies and commercial space on Hegarty Lane.*

*Noise emission goals for the operation of mechanical plant and equipment have been set in accordance with the Noise Policy for Industry. It is feasible that noise emissions from the subject site can comply with these criteria, subject to detailed design for Construction Certificate.*

Subject to compliance with the recommendations contained within the Acoustic Assessment, traffic noise impacts and rail vibration upon the residential accommodation will be within acceptable limits.

#### **Clause 45**

Under Clause 45 if development is to be carried out within 5m of an exposed overhead electricity power line, the concurrence of Ausgrid must be sought. If no response is received within 21 days, concurrence can be assumed.

The application was referred to Ausgrid on 23 July 2019. No response was received and therefore concurrence is assumed.

The proposal is consistent with SEPP 2007 and can be supported.

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

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

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

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

The proposed development may be partially visible from the immediate foreshores and waterways of Sydney Harbour and therefore clause 25 of the SREP is to be taken into consideration in the assessment of the application. The proposed development will be similar in stature to other buildings along Grafton Street, and lower than the tallest buildings in the Bondi Junction area. The proposal will add to the skyline of Bondi Junction however will have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries. The proposed development is considered acceptable with regards to the relevant matters for consideration under the SREP.

#### **3.1.6 Waverley Local Environmental Plan 2012 (Waverley LEP 2012)**



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

**Table 3: Waverley LEP 2012 Compliance Table**

Provision	Compliance	Comment
<b>Part 1 Preliminary</b>		
1.2 Aims of plan	Yes	The proposal is consistent with the aims of the LEP.
<b>Part 2 Permitted or prohibited development</b>		
Land Use Table  B4 Mixed Use Zone	Yes	The proposal is defined as 'shop top housing' and 'commercial premises', which are both permitted with consent in the B4 zone.  The proposal is consistent with the objectives of the zone.
<b>Part 4 Principal development standards</b>		
4.3 Height of buildings • 60m	No	The proposal has a maximum height of 69.05m exceeding the development standard by 9.05m or 15%.
4.4 Floor space ratio • 6:1  (Site area = 2070m <sup>2</sup> )	Yes	The proposal provides GFA is 12,443m <sup>2</sup> , equating to an FSR of 6:1.
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.
<b>Part 5 Miscellaneous provisions</b>		
5.10 Heritage conservation	Yes	On the opposite side of Hegarty Lane are the developments at 306 and 310-330 Oxford Street which are listed as Heritage items under the Waverley LEP (item No. 215 – façade group only). The heritage significance of those buildings however is the heritage shops which are at the Oxford Street frontage of the sites and were included in the redevelopment of those buildings. The proposal is visually removed from those heritage terraces, and as such the proposal will not impact on the heritage significance of the heritage items.
<b>Part 6 Additional local provisions</b>		

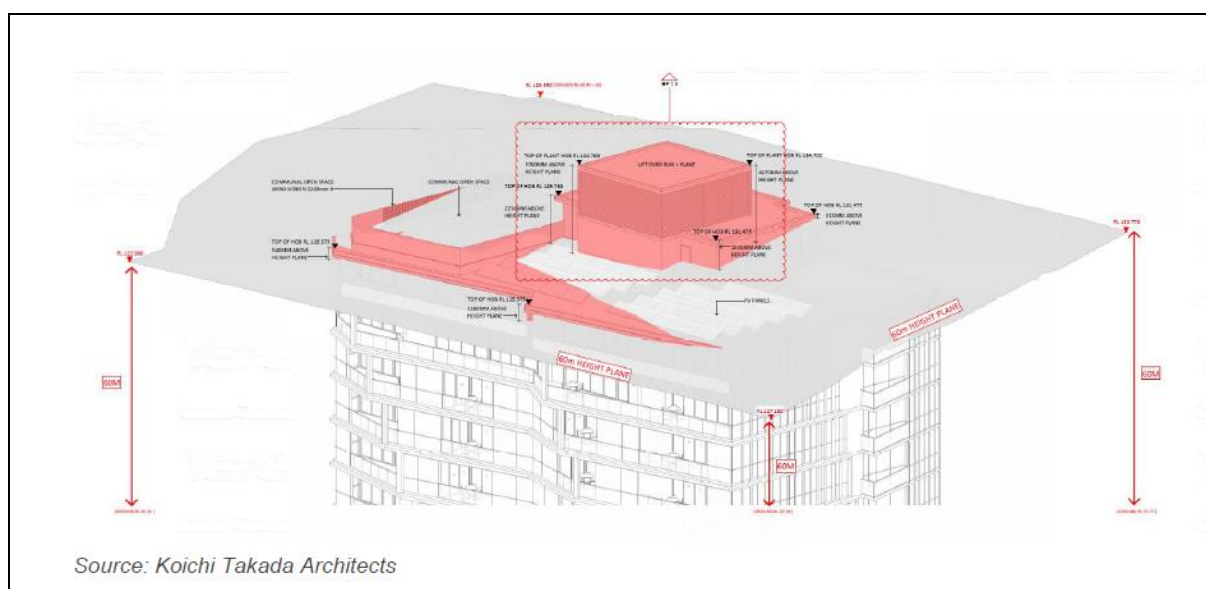
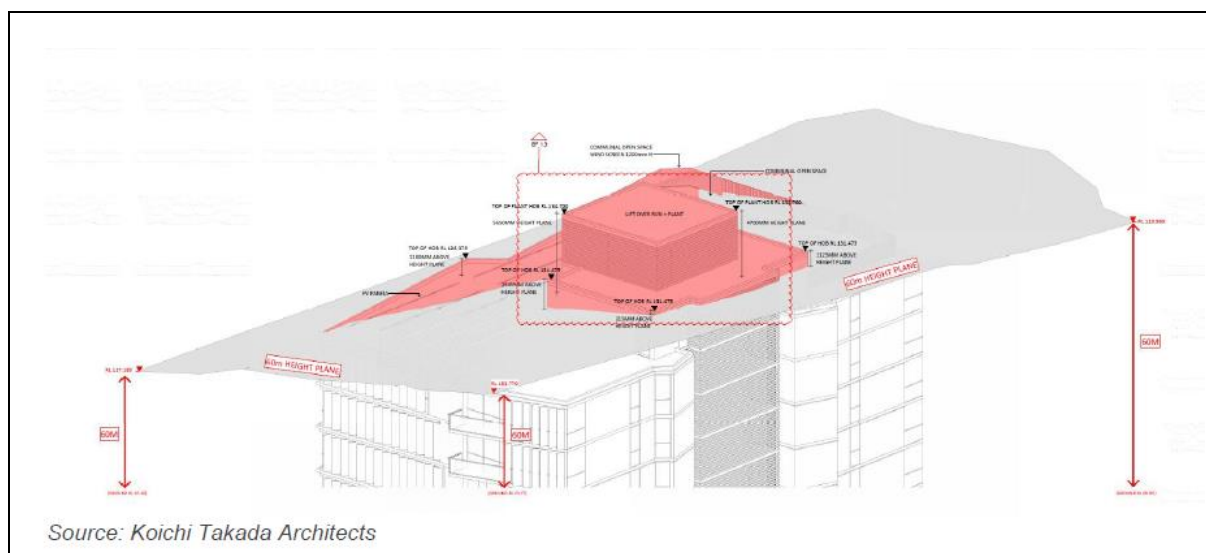
Provision	Compliance	Comment
6.2 Earthworks	Yes	<p>The application includes extensive excavation to provide three levels of basement car park.</p> <p>A 'Geotechnical Desktop Study' by Douglas Partners was provided with the application outlining the site conditions and providing general information about subsurface conditions across the site to identify any potential geotechnical issues related to the proposed development. Further geotechnical investigations are required for construction. Appropriate conditions are included in Appendix B.</p> <p>Given the rail corridor is located beneath the site, the concurrence of the rail authority is required. This has been provided with conditions of deferred commencement and consent which require final Geotechnical and Structural report/drawings that meet Sydney Trains requirements prior to the issue of any Construction Certificate. These are in the recommended conditions.</p>
6.5 Active street frontages in the Bondi Junction Centre	N/A	Grafton Street is not identified on the Active frontage Map in the LEP, however activation has been provided on both Grafton Street and Hegarty Lane in response to Council's complete streets urban design policy and the DCP.
6.9 Design Excellence	Yes	It is considered that the proposal provides a high standard of architecture and urban design. Refer to discussion in Section 3.1.3 of this report.

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

#### **Clause 4.6 Exceptions to Development Standards**

The application seeks to vary the height of buildings development standard in Clause 4.3.

The site is subject to a maximum height control of 60m. The proposed development has a height of 69.05m exceeding the standard by 9.05m equating to a 15% variation. The following images were extracted from the Applicant's written request to vary the height development standard and indicate the extent of the variation:



A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Waverley Local Environmental Plan 2012 seeking to justify the contravention of the development standard by demonstrating:

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- b) That there are sufficient environmental planning grounds to justify contravening the standard.

**Applicant's Written Request - Clause 4.6(3)(a) and (b)**

The applicant seeks to justify the contravention of the height development standard on the following basis:

- a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
- (i) The proposed development provides for a slender tower form and generous setbacks (consistent with and in some instances in excess of the guidance in the ADG and Waverley DCP) from the surrounding properties to the east, west and south which provides an appropriate level of amenity to these properties with regard to privacy, shadowing and views.
  - (ii) The proposal complies with the FSR control. The additional height proposed accords with this objective as it is a redistribution of mass, rather than an exceedance of anticipated built form not resulting in impacts on neighbouring properties greater than a compliant envelope.
  - (iii) The height breach is confined to the lift core/plant area and some elements of the rooftop parapet and communal open space. The lift core provides for appropriate clearance height for DDA clearance to the roof-top communal areas.
  - (iv) The area of exceedance above the 60m height standard has been examined, and in particular the plant areas around the lift core have been redesigned and arranged in a logical manner to reduce shadow impacts on surrounding properties (in particular residential apartments to the south of the site. From this analysis, there will be no additional shadow impacts (beyond that of a compliant height) on habitable spaces in the apartments directly to the south of the site. The exception is a very negligible shadow on the roof space of the building (which otherwise gets very good solar access at mid-winter).
  - (v) The proposal does not create any unreasonable impacts on the environmental amenity of neighbouring properties. From a view sharing perspective, the only affected properties to the south have a much smaller height limit (38m), so the height breach will not affect the potential future views available from this property as it is at a much higher level.
  - (vi) The proposal does not create any unreasonable impacts on the amenity of public spaces in and around the subject site. In particular, there are no unreasonable shadow impacts to the south.
  - (vii) 59 Grafton Street has a recently approved development application for a shop top housing development. The approved DA for that site has a proposed building height of RL132 (or a 5.1m exceedance above 60m). The building proposes a generally compliant built form envelope with a 6 storey podium, and setback tower form along Grafton Street. Council has clarified that the breach of height in relation to plant, lift cores and open spaces in that circumstance are acceptable.
  - (viii) The proposed development adopts a similar podium and tower form consistent with WDCP 2012, but actually provides much larger separation distances given the larger site area comparative to 59 Grafton Street. Similarly, the height breach relates to plant, lift cores and communal open spaces and are not attributed to any residential GFA at this level.
  - (ix) The proposal (and height breach) are compatible and generally consistent with the height, bulk and scale of the desired future character of the locality, and provide a human scaled podium, with high quality retail and commercial activation along Grafton Street and Hegarty Lane. This is further supported by the fact that the proposal complies with the FSR control.
- b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The height breach is largely confined to areas of the roof plant, lift cores, and communal open spaces, and not to areas of habitable floor space.

- (ii) The subject site is constrained by Sydney Rail Tunnels below which significantly limit the extent of basement excavation to accommodate multiple levels of car parking below ground. This subterranean condition has dictated that the lift core is in a very specific, centralised location which sits between two of the rail tunnels, which has meant that the proposed development has had to carefully manage the extent of basement excavation, which has limited the quantum of car parking available on the site (below the maximum parking requirements of WDCP).
- (iii) The site has a significant slope of approximately 4.3m from north to south, and provides for a generous 6.6m floor to ceiling height at the Grafton Street frontage to create enhanced amenity and effectively “double height” retail space, which has been encouraged by Council’s Design Excellence Panel, and ultimately creates an enhanced ground plane.
- (iv) The WDCP requires a podium treatment up to the 6th storey (of approximately another 12.9m above the ground floor level), with the ‘tower’ then only beginning above this (or approximately 19.5m above ground level at Grafton Street). Coupled with the generous tower setbacks of 12m, limited depth of tower floorplate, and typical floor to ceiling heights, this creates another 13 levels above the podium, which aligns with the parapet edge on the northern edge of the building (i.e. approx. 60m) which is consistent with the height standard for the site.
- (v) In addition, a requirement of Council’s DCP to provide MRV access on site results in the need to have a higher floor to ceiling height for the ground level basement entry.
- (vi) However, given that the site slopes up towards the south, to ensure that another finished floor level is consistent with the 60m height standard on the southern side (i.e. on Hegarty Lane), this creates a negligible variation to the height standard on the northern side of the site.
- (vii) In addition, in order to centralise lift overruns, mechanical plant and services, these are proposed to sit slightly above the 60m height standard. As there is no unreasonable view, shadow or other amenity impacts as a result of this specific breach, we believe that this negligible variation is reasonable under the circumstances.
- (viii) Council have accepted variations where they relate to lift overruns, plant equipment and ancillary features and where there is no additional impact as a result of these breaches.
- (ix) The proposed development complies with the maximum FSR standard applicable to the site, so there is no tangible nexus to the height breach and the proposed density for the site. Similarly, there is not habitable floorspace (GFA) above the height standard, this is simply servicing elements and communal open space elements that are well setback from the street frontages.
- (x) The proposed variation is not unlike other recently approved developments in the area. Council have accepted variations where they relate to lift overruns, plant equipment and ancillary features and where there is no additional impact as a result of these breaches.

#### Consideration of Applicants Written Request - Clause 4.6(4) (a) (i) and (ii)

Development consent must not be granted unless the consent authority is satisfied that:

- a) The applicant’s written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and



- b) 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.

Does the written request adequately address those issues at clause 4.6(3)(a)?

It is considered that the applicant has adequately addressed that compliance with the standard is unreasonable or unnecessary in the circumstances of the case and has referenced one or more of the following justification as set out in *Wehbe v Pittwater Council* (2007) 156 LGERA 446:

- a) *the objectives of the development standard are achieved notwithstanding non-compliance with the standard;*
- b) *to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;*
- c) *to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;*
- d) *to establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- e) *to establish that "the zoning of particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Does the written request adequately address those issues at clause 4.6(3)(b)?

The applicant has adequately addressed that there are sufficient environmental planning grounds to justify contravening the standard.

Is the development in the public interest?

The proposed development will be in the public interest because it is consistent with both the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out including;

The objectives of the height development standard are listed following with an assessment of the proposal against each objective:

***(a) to establish limits on the overall height of development to preserve the environmental amenity of neighbouring properties and public spaces and, if appropriate, the sharing of views,***

The applicant has stated that the proposal would not give rise to any unreasonable or unexpected amenity impacts, noting that that view, privacy and shadow impacts do not arise from the height non-compliance.

The height variation is contained to the lift, plant and the balustrading of the roof terrace as shown in Figures 8 and 9 (above), and do not extend for the full width of the tower with only elements being over the height. The main non-compliance relates to the plant over the termination of the lift at the roof level. Amended plans have been received on 5 December 2019 which relocate the lift overrun and plant at the topmost level that exceeds the height control away from the southern extent of the roof to reduce additional overshadowing impact upon surrounding properties.

During the notification period, a number of submissions were received regarding loss of views from the properties to the south of the site. The applicant has provided a 'View Analysis Report' to assess the view impacts from surrounding properties and is a detailed assessment of potential view impacts from properties at 310-330 Oxford Street and 304-308 Oxford Street (a recently constructed building) which are the most affected properties in terms of view loss.

Submissions were also received from properties fronting Grafton Street to the east of the site. Development consent has recently been granted to 59-75 Grafton Street, adjoining to the east, for a 19-storey building with a similar, albeit narrower, building form as the proposal with a six-storey podium with tower above. Any views from properties further east would already be obstructed by this recent approval given that the subject proposal will align with the front setback of the tower form of 59-75 Grafton Street. Potential views from 59-75 Grafton Street would be to the north and north-west across the side boundary of the subject site. The approval for 59-79 Grafton Street allowed the height development standard to be exceeded at the top-most level to the communal roof terrace, lift and plant, similar to the subject proposal. The height non-compliance at the subject development would only potentially impact the adjoining communal roof terrace, as the levels below comply with the height development standard. The generous 12m side setback on the subject proposal will ensure that potential significant views from this not yet constructed building, will be achievable.

Under the provisions of the LEP, the properties on the northern side of Hegarty Lane (ie, the subject site) have a maximum height control of 60m whilst the properties on the southern side of Hegarty Lane have a maximum height control of 38m. In this regard, given the additional 22m of height permitted for the subject site, view loss from the lower buildings to the south is a reasonable expectation upon redevelopment of the subject site. Views from these properties to the south of Hegarty Lane would be confined to building breaks established by setback provisions (discussed later in this report). Given the 22m difference in the height development standards of the sites, any view impacts will be experienced with a compliant building height and will not be related to the height variation at the topmost part of the building.

Public domain views are unlikely to be impacted by the additional height above the height control. The site is surrounded by existing high buildings with podium forms at the street.

The proposed building, by virtue of the zoning and development standards permitted for the site, will have an overshadowing impact on the adjoining buildings to the rear of the site to the south. At higher densities sunlight is harder to protect and the claim to retain it is not as strong. The proposed development reasonably complies with DCP built form controls envisaged for the site which seek to facilitate sunlight between properties. Light will filtrate between the gaps between buildings to the directly adjoining properties between the hours of 9am and 3pm throughout the year, the worst being on the winter solstice.

Detailed shadow diagrams demonstrating the impact of the amended non-compliant height have been provided by the Applicant. These diagrams indicate that the additional overshadowing caused by the exceedance of the height control will fall onto the common roof terrace of 306 Oxford street at 9am however will be clear of the roof of this building by 10am. The amended roof design setting the non-compliant plant back from the southern edge of the building results in no additional overshadowing during the remainder of the day than a compliant building form. The roof terrace at 306 Oxford Street will continue to receive at least 5 hours of solar access throughout the day being only overshadowed by the subject development from 9am-10am.

Given the above analysis and as detailed elsewhere in this report, the height control variation is not considered to result in unreasonable additional environmental impacts upon adjoining properties or the public domain.

Council has consistently accepted the lift and plant rooms on top of a tower form in the Bondi Junction commercial core area that exceed the height limit and have limited impacts, provided they are located in the centre of the building, away from leading edges of the predominant tower form so they are not viewed from the public domain and particularly when they facilitate a commitment to a genuinely landscaped and well-appointed communal roof terrace with accessible facilities. Acknowledging that these spaces will be visible from other buildings within the vicinity, being densely zoned, plant areas are acceptable provided they are suitably screened to improve the aesthetic from neighbouring tall buildings.

The main area of exceedance of the height control is located centrally on the roof (plant) or on the northern side of the building fronting Grafton Street. The amended location of the roof plant is now set back from the edge of the building from Hegarty Lane reducing impact upon buildings to the south and visibility from the public domain. The plant and lift core appear as a central 'spine' to the building from Hegarty Lane however the topmost plant level will be set in from the edges. In this regard, the plant is sufficiently concealed by design.

The environmental amenity of neighbouring properties and public spaces is preserved to the extent that would be expected given the desired future character of the area. Accordingly, the proposal is considered to be consistent with objective (a).

***(b) to increase development capacity within the Bondi Junction Centre to accommodate future retail and commercial floor space growth,***

Although the proposal will demolish an existing commercial building on the site, the subject site is located on the periphery of the Bondi Junction Centre and not within the commercial core. Whilst Council would prefer that further additional commercial space is provided in the development to make up for the removal of the existing building, the proposal does not contravene any planning instruments to warrant refusal on that basis.

Notwithstanding, the amended proposal has increased the amount of commercial floor space to be provided within the development with retail along Grafton Street and Hegarty Lane and increased commercial floor space fronting Hegarty Lane at the rear. The amended proposal is considered to be consistent with objective (b).

***(c) to accommodate taller buildings on land in Zone B3 Commercial Core of the Bondi Junction Centre and provide an appropriate transition in building heights surrounding that land,***

The subject site is situated within the B4 Mixed Use zone, not within the commercial core. Notwithstanding, the site is located in the periphery of the Bondi Junction Centre, being land that surrounds the commercial core. The proposal provides an appropriate transition in building height and is consistent with the height variations allowed to similar recent approvals.

***(d) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively complement and contribute to the physical definition of the street network and public space.***

This site was up-zoned in the now repealed Waverley LEP (Bondi Junction) 2010, and although not the same scale as the existing commercial building, has the characteristics of high-density development commensurate with the 'character' determined by the development standards for the site. The minor height non-compliance with the part of the roof of the building at the northern end of the site near Grafton Street and the plant equipment to the roof is not considered to be out of character with the locality.

The proposed building is compatible with other new mixed use buildings within the area that have similar other breaches to the height limit for plant equipment, lift overruns and common open space areas and other minor deviations which result due to the slope of the land. The key built form controls in the DCP for this site including a six-storey podium with 6m tower setback is also met and by virtue of following those controls is considered to complement the physical definition of the street to address objective (d).

With regards to the objectives of the B4 zone, the relevant objectives are to:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To encourage commercial uses within existing heritage buildings and within other existing buildings surrounding the land zoned B3 Commercial Core.*

The zone objectives seek to provide a mixture of compatible land uses, and to integrate suitable business, office, residential, retail and other development in an accessible location to maximise public transport patronage and encourage walking and cycling. The building proposes to replace an existing commercial building with a shop top housing development with commercial premises, providing a mix of residential and commercial uses in line with the objectives of the mixed use zone.

Whilst Council would prefer that further additional commercial space is provided in the development to compensate for the removal of the existing building, the proposal does not contravene any planning instruments to warrant refusal on that basis. Overall the proposal, despite the height non-compliance will meet the objectives of the B4 zone.

The breaches to the height plane for plant and lift overrun and minor deviations which respond to the slope of the land and the proposed building will be consistent with objectives of the development standard.

### Conclusion

The Clause 4.6 statement is provided to the Panel for consideration as the consent authority. Notwithstanding, for the reasons provided above, Council is of the opinion that the requested variation to the height development standard is supportable. The applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Waverley Local Environmental Plan 2012, and the proposed development would be in the public interest as it is consistent with the objectives of height development standard and the B4 zone.

The matter is put to the Panel as the consent authority, to determine whether there are sufficient environmental planning grounds to justify contravening the development standard for the breach to the height limit and whether a variation to the development standard in this instance would be in the public interest considering the matters under Clause 4.6.

### 3.1.7 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	<p>A waste management plan has been submitted with the application and conditions of consent are included in Appendix B.</p> <p>The amended plans provide for on-site collection of garbage for a Medium Rigid Vehicle (MRV) providing ceiling height clearances of 4.3m to the driveway entry and 5.725m within the on-site collection area. Given the DCP requires 4.3m for on-site collection, the proposal provides sufficient clearance for waste collection vehicles. A large turntable will allow waste collection vehicles to leave the site in a forward direction.</p> <p>Commercial Waste using a private contractor will be able to be collected on site in the designated area.</p>
2. Energy and water conservation <ul style="list-style-type: none"> <li>Energy assessment report required for mixed use development over \$3 million</li> </ul>	Yes	<p>In regards to the energy consumption and GHG emissions of the proposed building, three key documents have been provided and amended:</p> <ul style="list-style-type: none"> <li>A BASIX certificate showing BASIX targets meet minimum requirements.</li> <li>NatHERS certificate.</li> <li>An energy assessment report showing that the proposed developed is predicted to decrease GHG emissions by 30% compared to a reference building.</li> </ul> <p>Further design and verification of energy and GHG emissions performance should be provided prior to construction to verify the performance of the building to be delivered. This matter is addressed via condition of consent.</p>
5. Tree preservation	Yes	<p>An Arborist report was submitted with the application indicating that there are eight trees surrounding the site, seven of which are street trees on Grafton Street. The eighth tree is on a neighbouring property and the report recommends that it be protected. Two trees are</p>



		<p>to be removed and replaced in another location with all other trees to be protected.</p> <p>Council's Tree Management Officer and Public Domain Engineer have provided conditions of consent which are referenced in Appendix B. The combined recommendation is that the street trees on Grafton Street should be removed and replaced with Tulip Lancewood trees.</p> <p>The Arborist report is referenced in the conditions of consent.</p>
6. Stormwater	Yes (subject to condition)	The stormwater plans submitted with the application do not comply with the Waverley Development Control Plan 2012 in reference to Waverley Council's Water Management Technical Manual. This matter can be addressed by a condition of consent included in Appendix B.
<p>7. Accessibility and adaptability</p> <ul style="list-style-type: none"> <li>• Must comply with DDA 1992, the relevant Australian Standards and the BCA.</li> <li>• 10% of the development to be adaptable and certified</li> <li>• One accessible car space for each adaptable unit</li> <li>• Universal Housing Design – 20% of units</li> </ul>	Yes	<p>An access report and subsequent addendum was provided to Council, prepared by ABE Consulting.</p> <p>The proposal provides 106 units overall with 11 being adaptable units and 11 being 'Liveable' (ie, Universal Housing Design) units. The plans also demonstrate that the adaptable units are also Liveable units, thereby complying with these controls.</p> <p>The proposal includes 11 accessible car spaces within the basement car park, complying with the control.</p> <p>Adaptable units must be certified as 'adaptable housing units' by an independent, suitably qualified person. This matter can be addressed as a condition of consent.</p>
<p>8. Transport</p> <p>Parking zone 1</p>		<p>The proposal provides:</p> <ul style="list-style-type: none"> <li>• 96 resident spaces (including 11 accessible)</li> <li>• 15 visitor spaces</li> <li>• 23 motorbike spaces</li> <li>• No retail/commercial spaces</li> <li>• 124 bicycle storage spaces</li> <li>• 42 spaces are tandem spaces (therefore must be allocated to 21 units with 2 spaces each).</li> </ul> <p><u>Residential component:</u> As previously discussed in this report, the ADG requires the RMS rates to be used for the</p>

<p>Business/office premises:</p> <ul style="list-style-type: none"> <li>• Min: 0</li> <li>• Max: 0.66/100m<sup>2</sup> GFA</li> </ul> <p>Retail premises:</p> <ul style="list-style-type: none"> <li>• Min: 0</li> <li>• Max: 2.0/100m<sup>2</sup> GFA</li> </ul> <p>Bicycle Parking:</p> <ul style="list-style-type: none"> <li>• 1 space/residential unit</li> <li>• 1 visitor space/10 residential units</li> <li>• 1/150m<sup>2</sup> GFA commercial/retail</li> </ul> <p>Loading Facilities: Commercial – 1/4000m<sup>2</sup> Retail – 1/400m<sup>2</sup> Residential – 1/50+ dwellings</p> <p>Car Share spaces: 1/90 dwellings</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes (subject to condition)</p>	<p>residential component of the proposal, being less than the DCP rates. Refer to Section 3.1.7 for detailed discussion. The proposal provides more than RMS minimum requirements (which is 74 residential spaces, 15 visitor spaces as a minimum), and less than DCP requirements (which are a maximum of 96 residential spaces, 15 visitors), considered acceptable.</p> <p><u>Commercial/Retail component:</u> The DCP sets rates for the commercial/retail component of the proposal.</p> <p>The minimum parking requirement within Parking zone 1 is nil. The proposal provides no commercial or retail parking on site which is consistent with the control.</p> <p><u>Bicycle Parking:</u> The DCP requires for the proposal:</p> <ul style="list-style-type: none"> <li>• 106 spaces for residents</li> <li>• 11 visitor spaces</li> <li>• 5 spaces for commercial/retail</li> </ul> <p>The total number of bicycle spaces required by the DCP is 122.</p> <p>The proposal provides 124 bicycle parking spaces within a room in the basement, with level access. 'End of trip facilities' are provided adjacent to the bike storage.</p> <p>A condition will require that a proportion (ie, visitors and 50% of the retail/commercial spaces) are provided at grade near the entry.</p> <p><u>Loading Facilities:</u> Under the requirements of the DCP the proposal should provide 1 space for the commercial units, 1 space for the retail and 1 space for the residential units.</p> <p>The proposal provides 2 designated loading spaces and a third area for large trucks (including garbage trucks) on the turntable at the ground level (Basement 02).</p> <p>The DCP requires one car share space which has not been provided. As discussed in Section 3.1.3 of this report, the RMS guide requires 89 spaces for the residential component however, the</p>
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<p>Urban Design:</p> <ul style="list-style-type: none"> <li>• Properties with 2 frontages should have only one vehicular crossing to minimise pedestrian conflict</li> <li>• Driveways should be provided from rear lanes where possible.</li> </ul>	<p>Yes</p>	<p>proposal provides 111 spaces. Given that the proposal provides more than the required residential spaces, it is considered that one space can be allocated to for car sharing. A condition to this effect is included in Appendix B.</p> <p><u>Urban Design:</u></p> <p>The amended plans provide one vehicular access point from Grafton Street. Although Hegarty Lane is the preferred access point, being the rear lane, due to the railway tunnel under the site and the requirement for access into the basement by garbage trucks for on-site garbage collection, access could not be provided from Hegarty Lane. Additionally, the adjoining approval at 57-59 Grafton Street has vehicular access from Grafton Street rather than Hegarty Lane. This arrangement also allows greater retail/commercial space in the laneway activating this area.</p>
<p>10. Safety</p>	<p>Yes</p>	<p>The ground floor levels on Grafton Street and Hegarty lane feature active retail spaces to provide activity on these frontages. The commercial spaces to Level 04 also provide casual surveillance of Hegarty Lane. The residential units are orientated toward the north with balconies overlooking Grafton Street, also providing casual surveillance of the area.</p> <p>The residential lobby area is clearly delineated from Grafton Street. There is a shared residential and commercial lobby on Hegarty Lane however separate lifts to access the residential units and the commercial units above ground.</p> <p>The podium wall adjoins the approved building at 57 Grafton Street for part of the eastern elevation with the two podiums abutting in this location. There is a difference in level of 535mm between the parapets however the subject development will incorporate an 1800mm high privacy screen along this boundary. This will also inhibit access across the podiums between the two sites.</p> <p>The amended proposal provides commercial tenancies with sanitary facilities within each tenancy to ensure the public do not have access to the common areas of the residential tenants. This improves security for residents within the podium.</p>

11. Public art	Yes	Public Art is proposed in the Grafton Street foyer and at the rear of the site to Hegarty Lane. A report has been provided with a concept, however such details should be in accordance with Council's Public Art policy and this can be addressed as a condition of consent prior to the building being occupied.
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**Table 5: Waverley DCP 2012 – Part C2 Multi Unit and Multi Dwelling Housing Compliance Table**

Only those controls from Part C2 which relate to the proposed development are assessed in the table below.

Development Control	Compliance	Comment
<b>2.4 Excavation</b>		
<ul style="list-style-type: none"> <li>No fill to raise levels</li> <li>Minimum setback of 1.5m from side boundaries</li> <li>Under building footprint except main access ramp</li> <li>Basements no more than 1.2m out of the ground</li> <li>Geotechnical report required when &gt; 3m in depth or 25% slope</li> </ul>	Yes	<p>The proposal includes excavation to provide basement parking however the majority is located beneath the Hegarty Lane frontage due to the slope of the land and the rail corridor underneath the site.</p> <p>Due to the rail tunnel beneath the site, on the Grafton Street frontage the basement will be more than 1.2m above ground. The proposal has been designed to conceal the basement to the rear of the retail frontage and as such, the basement levels will not be discernible from the public domain.</p> <p>A geotechnical report has been provided and reviewed by Sydney Trains and conditions recommended.</p>
<b>2.5 Setbacks – Superseded by Urban Design Controls in Part E1</b>		
<b>2.6 Length and depth of buildings</b>		
<ul style="list-style-type: none"> <li>Maximum building length: 24m</li> <li>Maximum unit depth: 18m</li> <li>Maximum depth of single aspect unit: 8m</li> </ul>	<p>No</p> <p>Yes</p> <p>Yes</p>	<p>The lower levels of the building (the podium) are required to occupy the whole frontage of the site in accordance with the controls in Part E1 of the DCP.</p> <p>The tower form is 40m wide exceeding the maximum building length of 24m. Notwithstanding, the proposal complies with the side separation distances of the ADG (with minor exception as previously discussed) providing generally 12m side setbacks. The proposal also provides double the side setback controls of the DCP. The bulk of the building has been reduced</p>

Development Control	Compliance	Comment
		<p>through design and appropriate articulation to the façade.</p> <p>Additionally, the proposal is consistent with the streetscape and pattern of development in Grafton Street whereby buildings have significant width, exceeding the DCP control. Figure 4 demonstrates that the buildings fronting Grafton Street, which is the northern end of the Bondi Junction centre, have a wider built form with greater horizontality. This is in opposition with the buildings within the centre of Bondi Junction with a much lower height control and slim tower forms with verticality emphasised.</p> <p>Given the above analysis, the width of the tower is considered appropriate.</p> <p>The depths of all apartments are considered satisfactory.</p> <p>The central apartments within the tower are single aspect and are limited in depth to no more than 8m from a window.</p>
<b>2.8 Building design and streetscape</b>		
<ul style="list-style-type: none"> <li>Respond to streetscape</li> <li>Sympathetic external finishes</li> </ul>	Yes	<p>The Bondi Junction area is undergoing change. The existing building, being a commercial building is a mix of masonry and glazing, similar to surrounding commercial buildings on Grafton Street.</p> <p>The proposal incorporates an articulated façade with balconies and a mix of solid and non-reflective surfaces. Horizontal elements are proposed up the tower form to enhance the horizontality of the building in accordance with the streetscape on Grafton Street (discussed above in Section 2.6 of this table). Landscaping is proposed around the podium level and will contribute to the streetscape.</p>
<b>2.11 Vehicular access and parking</b>		
<ul style="list-style-type: none"> <li>Integrated into the design</li> <li>Secondary to pedestrian entrance</li> </ul>	Yes	<p>The vehicular entrance to the building is to Grafton Street, rather than the rear lane, due to the existence of the rail corridor beneath the site which prevents any further excavation. The Grafton Street vehicular access point is considered the most appropriate for the site</p>



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum of 1 x 2-way driveway</li> <li>From rear of side where possible</li> <li>Pedestrian safety</li> </ul>		given that it already exists and is the lower end of the site. The access point is separate to the pedestrian access to the building and is 2 way.
<b>2.12 Pedestrian access and entry</b>		
<ul style="list-style-type: none"> <li>Entry at street level</li> <li>Accessible entry</li> <li>Legible, safe, well-lit</li> </ul>	Yes	Pedestrian entrances to the building are provided from Grafton Street and Hegarty Lane and are clear, legible, accessible and safe.
<b>2.13 Landscaping</b>		
<ul style="list-style-type: none"> <li>Minimum of 30% of site area landscaped.</li> <li>50% of the above is to be deep soil</li> </ul> <p>ADG control: 7% of the site, deep soil zones should be provided</p>	<p>No</p> <p>Yes</p>	<p>The proposal cannot comply with the control set in part C2 of the DCP and the building footprint controls in part E1 of the DCP do not support the requirements for deep soil planting.</p> <p>Refer to Section 3.1.5 for detailed discussion of landscaping.</p>
<b>2.14 Communal open space</b>		
The ADG (section 3D) requires 25% of the site area to be nominated as communal open space	Yes	This matter has been discussed earlier in the report against the ADG controls and is considered acceptable on merit. Refer to Section 3.1.5.
<b>2.15 Private open space - Superseded by the ADG controls discussed above</b>		
<b>2.16 Solar access and overshadowing</b>		
<ul style="list-style-type: none"> <li>Controls for the solar access related to the proposed development are covered in the ADG.</li> <li>Adjoining properties to retain minimum of three hours of sunlight during winter solstice</li> </ul>	<p>Yes</p> <p>Yes (on merit)</p>	<p>The apartments within the proposed development receive adequate sunlight.</p> <p>The proposed building by virtue of the zoning and development standards permitted for the site will have an impact on the adjoining buildings to the rear of the site to the south. As noted in the DCP, at higher densities, sunlight is harder to protect and the claim to retain it is not as strong. The proposed development reasonably complies with the DCP built form controls envisaged for the site which seek to facilitate sunlight between properties. Light will filtrate between the gaps between buildings to the directly adjoining properties between the hours of 9am and 3pm throughout the year, the worst being the 21 June.</p>
<b>2.17 Views and view sharing</b>		
<ul style="list-style-type: none"> <li>Minimise view loss</li> </ul>	Yes	Refer to discussion following this table.

Development Control	Compliance	Comment
<b>2.18 Visual privacy and security</b>		
<ul style="list-style-type: none"> <li>Prevent overlooking of more than 50% of private open space of lower level dwellings in same development</li> </ul>	Yes	<p>The apartments within the development have been designed to be orientated toward the north (front) and away from the properties either side of the site. On the eastern and western facades, the proposal achieves a separation distance of approximately 12m from the side boundaries, which is sufficient distance for privacy.</p> <p>The Hegarty Lane frontage has been designed to provide generous setbacks to the residential dwellings by locating communal open space and walkways set back from the boundary. Landscaping will provide a privacy buffer between the residential units and communal seating area and also provide a pleasant outlook for the residential fronting Hegarty Lane opposite the site. The commercial units within the podium on Hegarty Lane are built up to the street boundary however will be provided with screening.</p> <p>Screening is proposed between apartment balconies on the podium which are in close proximity to avoid direct overlooking. Roof top terraces are a characteristic of the area.</p>
<b>2.19 Apartment size and layout - Superseded by the ADG</b>		
<b>2.20 Ceiling heights - Superseded by the ADG controls discussed above</b>		
<b>2.21 Storage - Superseded by the ADG controls discussed above</b>		
<b>2.22 Acoustic privacy</b>		
<ul style="list-style-type: none"> <li>Internal amenity by locating noisy areas away from quiet areas</li> </ul>	Yes	<p>An acoustic report addressing noise from the road (specifically Syd Einfeld Drive) has been provided and is discussed in Section 3.1.4 of this report. This report is referenced in the conditions of consent.</p> <p>In general, the building has been designed to replicate floor plans between floors ensuring that similar uses are contained above or below. The proposal also limits the number of apartments per floor and shared walls to provide sufficient amenity to residents.</p>
<b>2.23 Natural ventilation - Superseded by the ADG</b>		
<b>2.24 Building services</b>		
<ul style="list-style-type: none"> <li>Must have a minimum of 2m setback from the building edge</li> </ul>	Yes	<p>The garbage rooms and utilities are integrated into the lower ground floor plan and do not dominate the frontage of the building.</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Mail boxes to be provided near the main entrance.</li> </ul>		<p>Mail boxes are within the residential lobby.</p> <p>The roof plant is not set back from the edge of the building however this is a continuation of the levels below and forms part of the architectural design of the building. The plant and lift core appear as a central 'spine' to the building from Hegarty Lane. In this regard, the plant is sufficiently concealed by design.</p>

**Table 6: Waverley DCP 2012 – Part D1 Commercial and Retail Development Compliance Table**

Development Control	Compliance	Comment
<b>1.1 Design</b>		
1.1.1 Frontages	Yes	<p>The retail frontages are of an open design to provide an active frontage and display function to both Grafton Street and Hegarty Lane. The windows and openings are sympathetic to the design and proportions of the building.</p> <p>An awning is proposed to the Grafton Street frontage, 3.92m above the footpath level directly adjoining the site. Clear Street numbering is provided on Grafton Street with conditions requiring similar on Hegarty Lane.</p>
1.1.2 Lighting	Yes	A condition of consent is recommended to address lighting within the development. This is not a matter which requires detail at DA stage.
1.1.3 Amenity	Yes	The plant rooms and any associated facilities required for the future use of the retail and commercial premises (e.g. ducting, vents, air conditioners, refrigerator units, mechanical plant, etc.) are proposed within the building and conditions recommended to ensure that they are acoustically treated.
<b>1.2 Noise</b>		
	Yes	An Acoustic Report was provided with the application which addressed noise generation from mechanical plant associated with the building. This was reviewed by Council's Environmental Health Department and conditions of consent recommended which are included in Appendix B.

Development Control	Compliance	Comment
		Sections were provided demonstrating that acoustic treatment to ceilings in the retail/commercial premises is possible to ensure that any future uses do not impact unreasonably upon the residential component of the development.
<b>1.3 Hours of operation</b>		
General base trading hours: <ul style="list-style-type: none"> <li>Mon - Sat: 7am to 11pm</li> <li>Sun: 7am to 10pm</li> </ul>	N/A	This application does not seek permission for the use of any of the commercial or retail premises. This matter would be assessed when that occurs.

**Table 7: Waverley DCP 2012 - Part E1 Bondi Junction Compliance Table**

Development Control	Compliance	Comment
<b>1.2 Urban form</b>		
<ul style="list-style-type: none"> <li>6 storey wall on other streets</li> <li>Tower to be setback from street edge</li> <li>Slender tower</li> </ul>	Yes	<p>A six-storey street wall is proposed to Grafton Street as per the DCP controls. A tower form is proposed on top, setback 6m from the front boundary of the podium level.</p> <p>There are no controls relating to built form for laneways within the DCP. Notwithstanding, the proposal has undergone several amendments and protracted negotiations to provide a design that contributes to Hegarty Lane and responds to the existing and desired character of the laneway. The amended plans have increased the commercial frontage in the laneway located centrally in the podium façade. Extensive landscaping and communal spaces are then located on the eastern and western sides of the commercial core. This enables setbacks from the recently approved development to the east and allows improved outlook from surrounding residential buildings which have balconies built up to the laneway.</p> <p>The provision of commercial space and landscaping fronting Hegarty Lane is considered to be a more desirable outcome than providing a four-storey podium for the full width of the site with only the laneway providing separation from balconies on the opposing buildings. The design of the proposed development will provide visual interest and landscaping within an otherwise bland streetscape in Hegarty Lane.</p>

Development Control	Compliance	Comment
		As detailed previously, a slender tower form is not reflective of this part of the Bondi Junction centre and a wider tower form is supported.
<b>1.3 Building use</b>		
<ul style="list-style-type: none"> <li>Grafton Street is a secondary street</li> <li>Retail and commercial frontages are encouraged along laneways where possible.</li> </ul>	Yes	<p>The Grafton Street frontage contains two retail shops extending for the majority of the length of the frontage. A centralised residential entry is integrated between the two retail shops.</p> <p>On Hegarty Lane the amended proposal has removed the proposed second vehicle entry and now provides retail and commercial uses across the frontage.</p>
<b>1.4 Access and movement</b>		
1.4.1 Arcades, through-site links and squares	Yes	<p>The DCP nominates the western boundary of the site with 43 Grafton Street as a 'future through-site link' connecting Grafton Street to Oxford Street through 292-302 Oxford Street.</p> <p>Development consent for the construction of a 14-storey mixed use development at this site has recently been granted. The consent includes a through-site link provided through the western side of the development. This through-site link would align with the redevelopment of the adjoining site at 43 Grafton Street and as such should be considered in any future redevelopment of this site.</p> <p>It is also noted that a through-site link has been approved for the adjoining development to the east at 59-75 Grafton Street which terminates at the eastern corner of the site in Hegarty Lane. A further through-site link is considered unwarranted on this site.</p>
1.4.2 Vehicular and service access to lots	Yes	The amended proposal provides a single vehicle access point from Grafton Street. The laneway is preferred in the DCP however the adjoining 59-75 Grafton has approval for access from Grafton Street due to railway tunnels beneath. This has been discussed previously and is considered acceptable.
1.4.4 On-site parking	Yes	The proposal provides three levels of basement car parking predominantly located below

Development Control	Compliance	Comment
		Hegarty Lane due to the depth of the railway tunnel beneath the site.
<b>1.7 Active street frontages</b>		
Secondary street <ul style="list-style-type: none"> <li>• 1 door/6-10m of frontage</li> <li>• At least 50% retail frontage</li> <li>• No more than 15% services or blank walls</li> <li>• Not less than 80% to be aligned to the street</li> </ul>	Yes	<p>The retail element on Grafton Street responds appropriately to the controls for secondary streets. The retail frontage is more than 50% of the Grafton Street frontage at approximately 54%. The service areas equate to approximately 15% of the frontage. The remaining frontage is the vehicular access and the residential entry lobby.</p> <p>The building does not align with the front boundary however this is a consequence of the varied and offset design of the podium on Grafton Street. Given this is a feature of the unique design of the building overall it is acceptable.</p>
<b>1.8 Street alignment and front setbacks</b>		
Grafton Street: <ul style="list-style-type: none"> <li>• Buildings to be aligned to street boundary</li> <li>• 6 storey street wall with 6m setback to tower</li> </ul>	Yes	<p>The proposal complies with the setback controls having a six-storey street wall on Grafton Street with the tower set back 6m from the front boundary. There are minor encroachments on the 6m front setback in the tower form however this is a consequence of the varied and offset design. This is considered acceptable.</p>
<b>1.9 Separation</b>		
To residential buildings Level 1-5 – 12m Level 6 and above – 24m	N/A	<p>The building is orientated to the front and rear boundaries as per the DCP guidance. Separation distances are recommended in the DCP, however are superseded by the ADG controls which was addressed earlier in this report.</p>
From residential to commercial buildings: <ul style="list-style-type: none"> <li>• Level 1-5 – 9m</li> <li>• Levels 6 and above – 18m</li> </ul>	Yes	<p>The commercial units on Hegarty Lane will be located opposite residential balconies fronting the lane at 312 Oxford Street. The separation distance will be 9m consistent with the DCP control. Notwithstanding, the commercial units incorporate screening on the southern elevation to further enhance the privacy of residential units opposite. The screening will incorporate public art which will add to the visual appearance of the development within the laneway.</p>

Development Control	Compliance	Comment
		The proposal has a separation distance of 27m between the tower and the adjoining commercial offices at 35-43 Grafton Street.
<b>1.10 Side and rear boundary setbacks</b>		
<p>Side boundaries: Avoid orienting living areas to the side boundaries where possible.</p> <p>Block edge building form to be orientated generally to the front and rear.</p> <p>Rear boundary – distance separation controls to be met.</p>	Yes	<p>The proposed building will orientate windows to the side boundaries for the apartments located on the south side of the tower. However, the proposal generally achieves 12m separation distances to the side boundaries complying with the ADG separation distance controls. It is noted that a small part of these rear balconies will encroach upon the 12m separation distances however this is minor and considered to not warrant further amendment of the proposal simply for technical compliance.</p> <p>The block edge form (the podium) has no windows to the side boundaries and is orientated to the front and rear boundaries of the site. The exposed walkways within the podium are marginally set back from side boundaries however it is unlikely they will impact visual and acoustic privacy of adjoining properties to an unreasonable degree given that they provide pedestrian access to only two units on each end.</p> <p>The matter of separation between the buildings to the side and rear is discussed in the consideration of the Apartment Design Guide earlier in this report.</p>
<b>1.11 Building footprint</b>		
Refer to controls and Figures 20, 21, 22	Yes	The proposal follows the guidance of the DCP having block edge form to the street with tower setback from the street wall above. The tower form has been designed so that residential units are no greater than 8m from a source of sunlight.
<b>1.12 Building orientation</b>		
<ul style="list-style-type: none"> <li>Block edge to address street</li> <li>No blank walls to public streets.</li> </ul>	Yes	The block edge elements of the proposal are oriented to, and address, Grafton Street. The tower is largely orientated toward the front. No blank walls front the public streets.
<b>1.13 Number of storeys</b>		



Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Maximum of 16 Storeys with a 6 storey podium/street wall</li> </ul>	No	<p>The proposal will present as 19-storeys with a double height retail level on Grafton Street and 19-storeys on Hegarty Lane (including the two levels of plant at the roof). The height of the proposal has been discussed previously in this report and is considered acceptable.</p> <p>Given the minimum floor to ceiling heights required in the DCP, it is acknowledged that 19 storeys can be achieved predominantly within the height limit. This is not a matter which the Council would recommend refusal of the application, noting that this control is amended in the more recently adopted (and current) DCP, (Amendment 6) to 19 storeys.</p>
<b>1.14 View, vista and tree preservation</b>		
<ul style="list-style-type: none"> <li>Retain vistas down Newland Street, Bronte Road and Grosvenor Street both to the south and the north.</li> </ul>	Yes	The proposal does not interrupt the view corridors form public spaces identified in Figure 27 of the DCP.
<b>1.16 Design excellence</b>		
Development consent must not be granted for development to which this Section applies unless the consent authority considers that the development exhibits design excellence.	Yes	The proposal has evolved to respond to the matters raised by Council during the Pre-DA process and the assessment process to respond to the DCP requirements and other issues. This matter has been discussed earlier in this report.
<b>1.17 Building elevations</b>		
<ul style="list-style-type: none"> <li>Architecturally designed and contribute to the street in which they are located.</li> <li>Incorporate principles of passive design</li> </ul>	Yes	<p>The facades of the building are articulated with openings and screening to respond to the context. Unlike other buildings in Bondi Junction, the site is exposed to road noise as well as the tunnel underneath. Recommendations are in the noise report to address these issues.</p> <p>Notwithstanding, the proposal has been designed to incorporate the principles of passive design as demonstrated in the specialist reports provided.</p>
<b>1.18 Awnings and colonnades</b>		
<ul style="list-style-type: none"> <li>Height range of 3.2m - 4.2m</li> <li>To step with topography</li> <li>Provide lighting</li> </ul>	Yes	An awning is proposed to Grafton Street to a height above the footpath of 3.25m to align with the level between the ground floor retail and the void above. The awning steps with the

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Be consistent in appearance</li> </ul>		topography across the front. An awning to the lane is not required by the DCP.
<b>1.19 Designing buildings for flexibility</b>		
<ul style="list-style-type: none"> <li>Design building to permit adaptation for other future uses, with minimal structural and service alteration</li> </ul>	Yes	The retail and commercial spaces as proposed appear to be flexible for a range of commercial activity within the building. Sanitary facilities are provided to account for potential food businesses.
<b>1.20 Ceiling heights</b>		
<p><i>Minimum floor to floor heights:</i></p> <ul style="list-style-type: none"> <li>Ground floor: 4m</li> <li>First floor: 3.5m</li> <li>Above first floor, commercial uses: 3.5m</li> </ul>	Yes	<p>The Grafton Street frontage is 6.72m from the retail ground level to the first residential level. The retail shops are provided with a void above for part of the frontage and basement Level 01 for the remainder.</p> <ul style="list-style-type: none"> <li>Ground floor – 3.92m floor to floor</li> <li>First floor (void over retail at ground) - 2.8m</li> </ul> <p>On Hegarty Lane the retail and commercial provide floor to floor heights of 4m.</p> <p>The residential floors have sufficient distance to accommodate compliant 2.7m floor to ceiling heights consistent with the ADG.</p>
<b>1.21 External living areas</b>		
<ul style="list-style-type: none"> <li>Accessed from living area</li> <li>12m<sup>2</sup> area and 2.5m minimum dimension.</li> <li>Privacy screening and balustrade to be considered according to circumstances (considering climate, wind, privacy, casual surveillance)</li> </ul>	Yes	<p>The development provides sufficient external living areas to adequately address the ADG which supersedes this DCP.</p> <p>Privacy is considered adequate by virtue of generous separation distances and screening where appropriate.</p>
<b>1.22 Wind mitigation</b>		
<ul style="list-style-type: none"> <li>Buildings &gt; 9 storeys, wind tunnel study is required</li> </ul>	Yes	A wind report has been submitted which states that the wind conditions for the majority of the development generally satisfy the desired wind comfort criteria, subject to wind mitigating treatments such as trees, planters, screening. The report is referenced in the recommended conditions of consent.
<b>1.23 Reflectivity</b>		

Development Control	Compliance	Comment
<ul style="list-style-type: none"> <li>Mitigate reflective surfaces to a maximum of 60% of facade surface area above ground level</li> <li>Report required for buildings with high levels of glazing.</li> </ul>	Yes	A 'Solar Light Reflectivity Report' by WINDTECH was provided in support of the application. The report makes recommendations to ensure that the reflectivity of the building is within appropriate thresholds. The report is referenced within the recommended conditions of consent.
<b>1.24 Roller shutters</b>		
<ul style="list-style-type: none"> <li>Prohibited on shopfronts</li> </ul>	Yes	This matter can be addressed as a condition of consent.

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

### ***View sharing***

The view impacts of the additional height above the development standard has been considered under Section 3.1.6 of this report. The following is an assessment against the remainder of the proposal in terms of view impacts:

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

During the notification period, a number of submissions were received regarding loss of views from the properties to the south of the site. The applicant has provided a 'View Analysis Report' to assess the view impacts from surrounding properties and is a detailed assessment of potential view impacts from properties at 310-330 Oxford Street and 304-308 Oxford Street (a recently constructed building) which are the most affected properties in terms of view loss.

Development consent has recently been granted to 59-75 Grafton Street, adjoining to the east, for a 19-storey building with a similar building form as the proposal with a six-storey podium with tower above. Any views from properties further east would already be obstructed by this recent approval given that the subject proposal will align with the front setback of the tower form of 59-75 Grafton Street. Potential views from the approved development at 59-75 Grafton Street would be to the north and north-west across the side boundary of the subject site. Views to the harbour and bridge will be maintained from the front balconies of 59-75 Grafton Street over Grafton Street.

The views obtained from buildings on the southern side of Hegarty Lane are from the north-eastern facing windows of those buildings and are currently enjoyed over the subject site, which is presently underdeveloped. To retain such views given the zoning and development standards for the site is unreasonable. Given that the height development standards for these sites (38m) are lower than the building proposed (with a development standard of 60m), a fully compliant building on the subject site would also obscure those views.

Those views that will be affected from the properties to the south are over a building which complies with the FSR development standard applicable to the site. The height variation has been previously discussed and is considered acceptable in regards to view loss. The other non-compliance with the built form controls which may impact upon views relates only to the separation distance of 10.5m to the rear apartments for a small part of the side elevations of the tower. The 'View Analysis Report' provided by the Applicant indicates that it is not this part of the proposal which will result in view loss.

Given that the Bondi Junction controls of the DCP allow side setbacks to within 6m of the boundary, the view impact from this minor non-compliance is not considered unreasonable.

It is not a reasonable expectation to retain views over an undeveloped site. The retention of private views at the expense of the reasonable redevelopment of an adjoining site is not a realistic expectation. In effect, loss of views from this property are an inevitable consequence of the redevelopment of the site. The zoning allows for a significant building on this site and the view impacts that go with that scale of redevelopment.

It is considered that the loss of views from surrounding properties is a consequence of the redevelopment of the site to high density development and the impacts are those anticipated by the zoning and development standards. Given the above analysis, and the view sharing planning principle, it is considered that the impact of the development upon private significant views is not unreasonable.

### **3.2 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.

### **3.3 Suitability of the Site for the Development**

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

### **3.4 Any Submissions**

The original proposal was notified 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*. Submissions from fifteen properties and a petition containing 161 signatures were received.

The final amended proposal was notified for 14 days, in accordance with *Waverley Development Control Plan 2012, Part A – Advertised and Notified Development*. Three submissions were received to the amended proposal.

The issues raised in the submissions and petition during both notification periods are summarised and discussed below.

**Table 8: Summary of property addresses that lodged a submission**

Property
23 Grafton Street, Bondi Junction
39-43 Grafton Street, Bondi Junction
Ground floor 01/79 Grafton Street, Bondi Junction
104/79 Grafton Street, Bondi Junction
603/79 Grafton Street, Bondi Junction
704/79 Grafton Street, Bondi Junction
1101/79 Grafton Street, Bondi Junction
1301/79 Grafton Street, Bondi Junction
603/310-330 Oxford Street, Bondi Junction
1203/310-330 Oxford Street, Bondi Junction
208E/310-330 Oxford Street, Bondi Junction
209E/310-330 Oxford Street, Bondi Junction
1302W/310-330 Oxford Street, Bondi Junction
704/350 Oxford Street, Bondi Junction
1805/71-73 Spring Street, Bondi Junction
12 Leswell Street, Bondi Junction
1201/304-308 Oxford Street, Bondi Junction
1301/ 304-308 Oxford Street, Bondi Junction
<b>Bondi Residents Action Group (petition with 161 signatures)</b>

**Issue:**

- **Bulk and scale**
- **Traffic and parking**
- **Visual and acoustic privacy**
- **Overshadowing**
- **Height**
- **Loss of views**
- **Non-compliance with applicable controls**
- **Excavation**
- **Wind tunnel effect**
- **Streetscape**
- **Environmental impacts**
- **Setbacks.**

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

**Issue: Construction issues: noise, dust, crane movements, dilapidation reports and construction management plans; the construction should be delayed until the neighbouring development is constructed**

**Response:** Should the application be approved, conditions of consent will be imposed regarding noise and dust during construction, including construction hours and the submission of a noise management plan to ensure that the noise does not exceed the acceptable limits during construction. It should be noted that construction works are limited on the weekends to offer respite to neighbouring properties. The recommended conditions outline the standard hours imposed for DA's within the LGA. Some issues raised by objectors are civil matters, such as ground anchors and crane movements, and are not a matter for the consent authority.

In regards to the impact from simultaneous construction with the adjoining development at 59-75 Grafton Street, development consent is valid for 5 years from the date of approval and as such, the consent authority does not know when each site will commence construction works.

***Issue: Dangerous traffic conditions in small lanes from increased traffic***

***Response:*** The proposal has been amended to provide vehicular access from Grafton Street only ensuring that the majority of additional traffic is concentrated to Grafton Street.

***Issue: Overdevelopment of Bondi Junction; infrastructure already at capacity; there is already too much residential and not enough commercial/jobs; Demolition of existing buildings is not in the public good/interest as it will result in loss of commercial space and jobs.***

***Response:*** The objectors have noted that Bondi Junction has too much development which impacts on existing infrastructure. The Waverley Local Environmental Plan sets the strategic framework for the Local Government Area and the site has been designated the highest FSR and height development standards in the LEP. The Bondi Junction Centre is identified for high density development located close to the Bondi Junction bus/rail interchange to achieve the housing targets set by the State Government. This is not a matter which warrants refusal of this application.

Throughout the assessment process, the retail and commercial component of the proposal has been increased. At present, there are no controls within either the LEP or DCP that prohibit the loss of commercial floor space, although it is understood that this is being investigated by Strategic Planners. Under the controls that apply to this site at the time of lodgement, the loss of commercial space is not a reason that would warrant the refusal of the application.

***Issue: Acoustic impact and light spill from the private swimming pool on the western side of the podium.***

***Response:*** A private swimming pool for the use of one apartment would not have unreasonable acoustic and visual privacy impacts upon adjoining properties as it is unlikely to be a high use area (privately owned). Noise and light spill from a courtyard or swimming pool is an anticipated impact of the use. Light spillage from the use of the pool would likely be absorbed by the light generated by the development overall. This single use in a 19-storey building is unlikely to be detrimental to the amenity of surrounding properties.

***Issue: Inadequate documentation.***

***Response:*** Sufficient documentation has been provided throughout the assessment process to satisfy Council.

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

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

***Issue: The proposal is not consistent with the Greater Sydney Commission's Eastern District Plan or the publication 'Towards our Greater Sydney 2056' as it does not support the commercial activity at the core of Grafton Street essential to the planning directives for Bondi Junction and it does not contribute to Bondi Junction's low carbon commitment.***

**Response:** The objector refers to 'Our Greater Sydney 2056 – Eastern City District Plan' in their submission noting that there are too many DA's approved for residential towers in Bondi Junction. The submission assumes that this site is located in the commercial core, however this site is zoned B4 for mixed use. The commercial core zoning is further west of the site.

It is acknowledged that the application proposes the demolition a commercial building, replacing it with less commercial space. Given the zoning of the land is B4 Mixed Use, the proposal is not a prohibited use. The design of the building, whilst providing significantly less commercial space than the current building, complies with the requirements of the DCP in terms of urban design and active uses at ground and first floor level and to the lane.

Recognising that Council needs to meet employment targets set by the Central District Plan (CDP) and strategically, the Council is reviewing the commercial floor space policies, however in a statutory sense. This is not a matter which can be considered in this development application without those specified in the controls.

The submission identifies that Waverley Council has nominated Bondi Junction as a low carbon precinct which is correct, and in this application, an Energy Assessment Report has been submitted which identifies a commitment to decrease GHG emissions by 30% compared to a reference building. This achieves Council's controls in the DCP. Conditions of consent are recommended in this regard to ensure that this commitment is carried through to the construction certificate drawings.

**Issue: Water supply and pressure will be affected.**

**Response:** Conditions require the plans are submitted to Sydney Water.

### **3.5 Public Interest**

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

## **4 REFERRALS**

### **4.1 Transport and Development**

Conditions were recommended which are included in Appendix B.

### **4.2 Green Infrastructure, Environmental Sustainability**

The following comments were provided:

*The commercial component of the building appears to meet the DCP control to be 30% more efficient than a reference building as per section J of the NCC. Meeting this is dependent on the heating and cooling efficiency as outlined in the Energy Assessment Report 'Issue A'. This detail should be included in the construction drawings before a CC is issued.*

*In regards to the residential component of the building, the addition of 10KW of solar panels will significantly reduce the energy load of this building. It is presumed that this solar generation will be connected to the common area load of the building. The BASIX certificate once recertified to include this is likely to have an increased score beyond the minimum score that it currently has.*



*There is significant potential for additional solar on the roof. To the west of the plant and lift overrun there is enough room to add an additional 4KW of solar panels. These could be tilted west. The input of a solar designer would be able to maximise the amount of solar that can be generated on that roof space. For example the panels could be flush mounted so that they don't impact on sight lines. Additional solar power to reduce common area apartment building load would result in a higher BASIX score and lower ongoing strata costs.*

*A small number of solar panels have been positioned on level 5 of the building. These solar panels will have significant shading from other buildings and the proposed development itself. It is unclear if these panels will be grid connected. There is merit in placing these panels on the upper floor of the building. There are power losses from the cable run but these would be offset by access to sunlight. The space gained by these panels could increase green space or communal space.*

*The Energy Efficiency Rating (EER) for the HVAC of the residential component of the building (3.0 to 3.5) is lower than that of the commercial component of the building (3.75 cooling and 4.0 for heating). It is noted that there is potential to increase the efficiency of the residential component of the building to that of the commercial component.*

#### Recommendation

*Options to increase the BASIX score beyond the minimum by increasing the number of solar panels and the EER of the HVAC should be investigated. These should be shown in a recertified BASIX certificate reflecting the amendments.*

*Recommended conditions of consent:*

- The recommendations of the Energy Assessment Report, including the Energy Efficiency Rating (EER) for the HVAC system for the commercial areas be included in the construction drawings and specifications and checked by a Certifier.*

A condition will require that the solar panels at Level 05 be relocated to the roof as recommended. The recommended condition of consent is included in Appendix B.

### **4.3 Waste and Recycling**

Conditions were recommended which are included in Appendix B.

### **4.4 Urban Design**

The following comments were provided:

#### Built Form

*The changes to the design of the building along Hegarty's Lane extends the three-storey podium providing a greater amount of street wall definition. As a result, the increased office space ensures a greater level of passive surveillance along the lane. The amount of blank wall is reduced, the retail street frontage is increased, and the vehicle entry point has been removed. All these modifications are supported as they combine to produce a human scaled environment with a focus on the pedestrian experience.*

*The removal of apartments on the top floors is supported as this ensures there are no habitable rooms clear of the height plane.*

*Façade and Interface*

*The removal of vehicle entry point at Hegarty Lane is supported as this increases pedestrian safety along Hegarty's Lane.*

*The inclusion of vertical shading elements to the western glazed facades and the articulation of recessed balconies to the northern façade are both supported as they deal with issues raised previously regarding orientation and solar heat gain.*

*Landscape*

*The amendments to the communal open space are supported as they provide a greater amount space and variety of uses. This allows a diverse range of activities to take place throughout the year, depending on the weather. The inclusion of solar panels on top of the roof are supported as well.*

*Recommendations*

*The amendments to the scheme have satisfied a large majority of the concerns raised in previous referrals. The adjusted built form and removal of the vehicle entry point along Hegarty Lane have created a human scaled environment with a focus on the pedestrian experience.*

#### **4.5 Public Domain**

Conditions were provided by Council's Public Domain Engineer which will require the recommended which are included in Appendix B.

#### **4.6 Environmental Health**

Conditions were recommended which are included in Appendix B. Additionally the following comment was provided in regards to contamination:

*In previous report dated 23 August 2018 additional information was requested in relation to Land contamination. A letter from JBS&G dated 21 September 2018 has been received (26 April 2019) advising intrusive investigations have been carried out and the results of these investigations now allow a conclusive statement to be made that the site is suitable for the intended use. The letter advises that no further investigation activities are required.*

*Therefore, a copy of the amended report has been requested for Councils records and notwithstanding the above report being forwarded to Council the proposal is satisfactory to this section subject to compliance being given to the following conditions:*

#### **4.7 GIS and ePlanning**

Conditions were recommended which are included in Appendix B.

### **5. RECOMMENDATION TO SYDNEY EASTERN CITY PLANNING PANEL**

Based on the above assessment, the proposal is considered to be in accordance with Section 4.15(1) (a) (b) (c) (d) and (e) of the Environmental Planning and Assessment Act 1979 and it is recommended the Development Application be granted a **DEFERRED COMMENCEMENT** by the Sydney Eastern City

Planning Panel subject to the deferred commencement matters in Appendix A and conditions in Appendix B:

**Report prepared by:**

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

Kylie Lucas  
**Senior Development Assessment Planner**

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

**Date: 5 December 2019**

**Date: 5 December 2019**

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