

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSEC-199
DA Number	DA-177/2022
LGA	Waverley
Proposed Development	Demolition of existing buildings and construction of a nine-storey residential flat building containing 41 apartments, including 25 affordable rental housing apartments, communal roof top terrace and two levels of basement parking
Street Address	7-15 Bondi Road, BONDI JUNCTION
Applicant/Owner	Bondi Road Development P/L
Date of DA lodgement	5 May 2022
Total number of Submissions Number of Unique Objections	22 submissions
Recommendation	Approval
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	Chapter 2: State and Regional Development Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 5 (Private infrastructure and community facilities over \$5 million) of Schedule 6 as the proposal includes affordable housing with a Capital Investment Value of the development is \$9,588,967 (excluding GST).
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • SEPP (Building Sustainability Index – BASIX) 2004 • SEPP 65 (Design Quality of Residential Apartment Development) 2002 • SEPP (Housing) 2021 • SEPP (Transport and Infrastructure) 2021 • SEPP (Biodiversity and Conservation) 2021 • SEPP (Resilience and Hazards) 2021 • SEPP (Planning Systems) 2021 • Waverley Local Environmental Plan 2012 (Waverley LEP 2012) • Waverley Development Control Plan 2012
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Amended architectural plans (dated 19/10/2022 on planning portal) • Amended Landscape plan (dated 19/10/2022 on planning portal) • Amended shadow diagrams (dated 19/10/2022 on planning portal) • Amended clause 4.6 variation request (dated 19/10/2022 on planning portal) • Amended Statement of Environmental Effects (dated 07/11/2022 on planning portal)
Clause 4.6 requests	<ul style="list-style-type: none"> • The height of buildings development standard of 28m pursuant to clause 4.3 of Waverley LEP 2012. • Zone R4 High Density Residential
Summary of key submissions	<ul style="list-style-type: none"> • Overshadowing and solar access • Height and wall height • FSR (bulk, scale, overdevelopment) and bonus under Housing SEPP • Building depth and length • Visual and acoustic privacy • Setbacks and separation distances • Traffic and parking • Trees and vegetation • Excavation • Streetscape and context impacts, and desired future character • Design excellence and articulation

	<ul style="list-style-type: none"> • View impacts • Insufficient clause 4.6 objection • Roof terraces and the provision of communal open space on the roof • Location of driveway is inappropriate
Report prepared by	Kylie Lucas, Senior Development Assessment Planner
Report date	21 November 2022

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

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

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

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

Yes

1. PREAMBLE

1.1. Executive Summary

This report is for a regionally significant development application (DA), DA-177/2022, which seeks consent for the redevelopment of the site known as 7-15 Bondi Road, Bondi Junction, specifically for the following:

- Demolition of all existing structures and earthworks, including bulk excavation to provide two levels of basement parking comprised of:
 - 40 vehicles (including eight accessible spaces and four spaces with EV charging facilities),
 - 13 motorcycle spaces,
 - 41 bicycle spaces,
 - storage for the apartments,
 - plant rooms, waste storage room and a bulky waste storage room.
- Construction of a nine-storey residential flat building providing 41 apartments, comprised of the following:
 - 25 infill affordable rental housing apartments under the provisions of State Environmental Planning Policy (Housing) 2021,
 - 16 non-affordable housing apartments,
 - Communal roof top terrace.

Since the DA was initially lodged in May 2022, Council has deferred the application twice to request the applicant submit additional and amended information and require design amendments to lessen the principal impacts of bulk and scale, separation distances and setbacks, privacy and increase design excellence. The assessment of the most recently amended plans, which were received by Council on 20 October 2022, finds that these issues are generally acceptable for the reasons outlined in detail in this report and, where necessary, mitigated and/or resolved by recommended conditions of consent.

The proposal provides 50% of the floor space as affordable rental housing and seeks the full 0.5:1 bonus under the provisions of the Housing SEPP. The proposal complies with the non-discretionary development standards of the Housing SEPP and satisfies the design requirements clause by providing a building that appropriately responds to the emerging character of the local area. The amended proposal is consistent with the height, bulk and scale of surrounding recent development with a nine-storey built form being the emerging character of the area given the zoning of the site for high density development.

The applicant's clause 4.6 written request is well-founded as it adequately demonstrates that strict compliance is unreasonable or unnecessary given the proposed development achieves the objectives of the development standard and R4 High Density Residential Zone under Waverley Local Environment Plan 2012 and sufficient environmental planning grounds have been established to vary the development standard.

A total of **22** public submissions were received and the issues raised in the submissions have been considered and addressed in this report and in the Recommendation.

The application has been assessed against the relevant matters for consideration under section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. It is recommended for It is recommended for approval subject to conditions of consent.

1.2. Site and Surrounding Locality

The site is identified as 7-15 Bondi Road, Bondi Junction and is comprised of five lots:

- SP55017, known as 7 Bondi Road;
- Lot 4 in DP 667810, known as 9 Bondi Road;
- Lot 1 in DP 310001, known as 11 Bondi Road;
- Lots A and B in DP 440400, known as 13 and 15 Bondi Road.

It is located on the south-western side of Bondi Road near the intersection with Waverley Crescent, with part of the site opposite Fingleton Reserve.

The combined site (the site) is irregular in shape with a front boundary of 11.3m to Waverley Crescent to the north and an addition front boundary of 44.16m to Bondi Road to the north-east, a western side boundary of 40.385m, a south-eastern side boundary of 37.755m and rear south-western boundary of 29.66m. The site has an area of 1673.1m² and falls from the rear towards the front by approximately 4m.

The site is occupied by the following:

- 7 Bondi Road: A three-storey residential flat building with basement parking. Vehicular access is provided via Waverley Crescent on the western side boundary.
- 9-11 Bondi Road: A single storey pair of semi-detached dwellings with vehicular access provided from Bondi Road to No. 9.
- 13-15 Bondi Road: A pair of single storey semi-detached dwellings with vehicular access from Bondi Road to hardstand car spaces within the front setback.

The subject site is adjoined by 21 Waverley Crescent where a nine-storey residential flat building with basement parking has recently been constructed.

Adjoining the site to the south-east are 17-19 and 21 Bondi Road, containing two and three-storey residential flat buildings. On the corner of Bondi Road and Waverley Street is a ten-storey residential building known as 50 Waverley Street.

To the rear of the site is 42-48 Waverley Street which contains two nine-storey residential flat buildings fronting Waverley Street.

Figures 1 to 8 are photos of the site and its context.

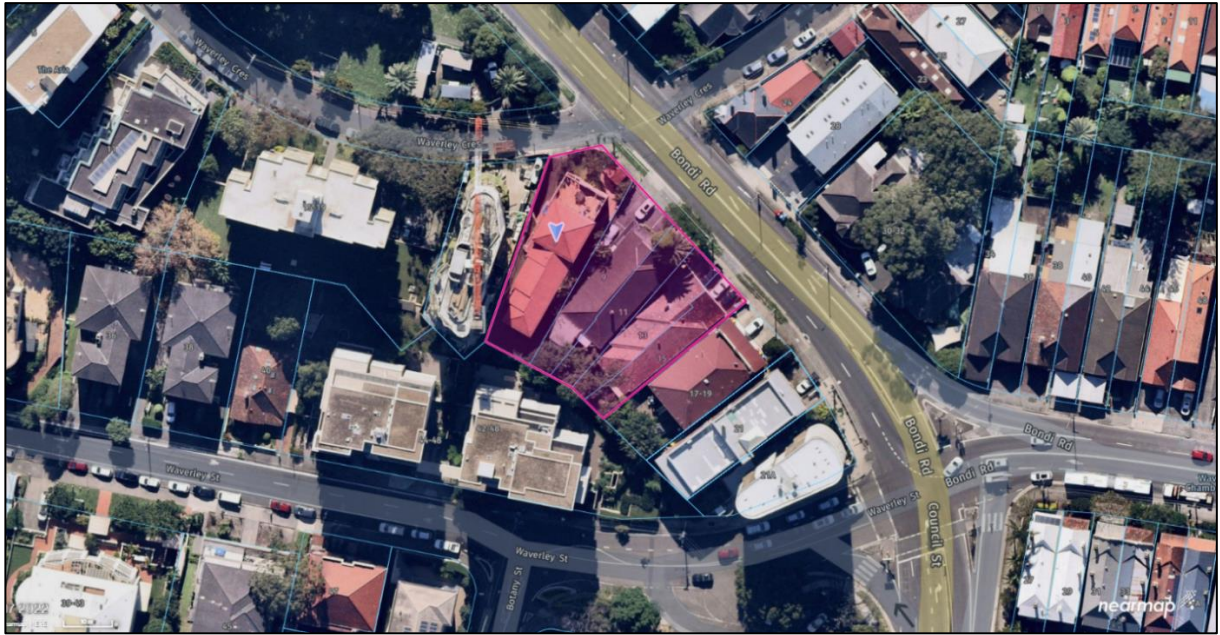


Figure 1: Aerial image of subject site



Figure 2: Combined frontage of subject site frontage to Bond Road



Figure 3: 13-15 Bondi Road (part of the subject site)

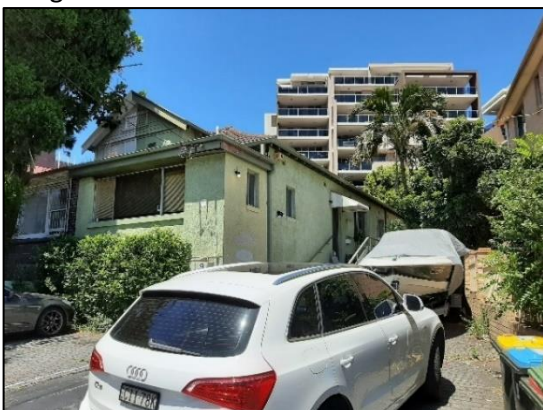


Figure 4: 9-11 Bondi Road (part of the subject site)



Figure 5: 7 Bondi Road (part of the subject site)



Figure 6: Adjoining recently constructed building to the west at 21 Waverley Crescent



Figure 7: Adjoining sites to the east on Bondi Road



Figure 8: Subject site and surrounding properties presenting to Bondi Road with 42-48 Waverley Street in the background.

1.3. Relevant Development History

Pre-DA advice (**PD-23/2018**), relating to **7-11 Bondi Road**, for the construction of a nine-storey residential flat building including two basement levels and incorporating affordable housing was provided in Council's letter dated 13 August 2018. The letter included advice in relation to calculating the affordable housing bonus, height and FSR, urban design, site isolation in terms of 21 Waverley Crescent (adjoining property to the west), visual privacy and building width. During this meeting, the

inclusion of 13 Bondi Road in the development site was discussed with the following written advice being provided:

Please note that the Pre-DA documentation that encompasses 7-13 Bondi Road as a means of gaining additional floor space will not be supported. Any proposal which encompasses this site will need to exclude that part of the site used as a single or semi-detached dwelling from FSR calculations. Demolition of the semi-detached dwelling would also not be supported as it results in a poor urban design and streetscape outcome.

DA-435/2018 for the demolition of the existing structures at **7-11 Bondi Road** and the construction of a new nine-storey residential flat building containing 41 apartments, 50% of which are 'infill affordable housing' apartments (total of 18), was approved by the Waverley Local Planning Panel (WLPP) on 27 November 2019.

DA-401/2020 for the demolition of structures at **7-13 Bondi Road** and construction of a nine-storey residential flat building containing 42 apartments with two levels of basement parking, communal open space areas on the ground floor and rooftop and alterations and additions to the existing semi-detached dwelling on site was refused by the WLPP on 23 June 2021. The proposal was largely similar to the previous approval for 7-11 Bondi Road, DA-435/2018; however, the applicant had acquired one half of a pair of semi-detached dwellings at No. 13 Bondi Road, increasing the size of the development site and the associated floor space and removing the infill affordable housing component from the proposal. The four main areas of concern, and subsequently reasons for refusal, were:

1. The proposal simply retained the single-storey semi-detached dwelling at No. 13 and used the associated site area to increase the size of the residential flat building. Given that the semi-detached dwelling was to be retained, including the rear open space and hardstand parking at the front, it visually had no connection to the proposed residential flat building. Instead, the residential flat building would appear as a towering, bulky form with limited setback to the dwelling. The contrast between the residential flat building and semi-detached dwelling would have been striking within the streetscape.
2. The incorporation of No. 13 Bondi Road into the development site restricted the development of the adjoining semi-detached dwelling in the pair at No. 15 Bondi Road (which is not part of the development site). The pair of semi-detached dwellings need to be retained to ensure that the pair are not cut through the middle with 'half of a house' being within the streetscape, particularly given the prominence of the site on the highly utilised Bondi Road. The retention of a single dwelling between nine-storey residential flat buildings was not consistent with the desired future character of the high density zoning.
3. The increased width of the building exceeded the DCP control and was out of character with surrounding high density development.
4. The pedestrian entry to the rear part of the residential flat building was poorly resolved and would have resulted in impacts in relation to safety, security and visual and acoustic privacy.

1.4. Proposal

The development application seeks consent for the demolition of all structures on Nos. 7, 11, 13 and 15 Bondi Road and construction of a nine-storey residential flat building providing 41 apartments, 25 of which are for infill affordable rental housing under the provisions of State Environmental Planning Policy (Housing) 2021.

Overall, the allocation of the apartments is as follows:

- Affordable housing apartments:
 - 7 x 1-bedroom apartments
 - 16 x 2-bedroom apartments
 - 2 x 3-bedroom apartments.
- Non-affordable housing apartments:
 - 7 x 2-bedroom apartments
 - 9 x 3-bedroom apartments.

The proposal will provide two levels of basement parking accessed via a driveway from Waverley Crescent. The car park will provide parking for 40 vehicles (including eight accessible spaces, four spaces with EV charging facilities), 13 motorcycle spaces and 41 bicycle spaces. The basement parking will also provide storage for the apartments, plant rooms, waste storage room and a bulky waste storage room.

The proposal also provides extensive landscaping throughout the site and communal open space at the ground and roof top levels.

1.5. Background

The development application was lodged on 5 May 2022 and a request for further information (stop the clock) was issued on 12 May 2022 for the following:

1. *Plan DA 2503 BOUNDARY CONDITION WEST shows 21 Waverley Street as a dwelling whereas there is now a residential flat building under construction on this site. Please update this plan accordingly.*
2. *Capital Investment Value Report (CIV) for the affordable housing component.*

The further information was provided to Council on 17 May 2022. A 'kick-off' briefing with the Sydney Eastern City Planning Panel (SECPP) was held on 16/06/2022 with the key issues raised being:

- *Height of street facing planters.*
- *Building width, separation, and boundary setbacks.*
- *Sub-terrain apartments.*
- *Materials and finishes.*
- *Drying facilities.*
- *Plan response to DRP comments.*

On 12 July 2022 the application was deferred for the following reasons (summarised):

1. Design Excellence in relation to the inadequate separation distances from the side boundaries, the subterranean apartments, the bulk and scale of the proposed development and the height of the boundary treatment along the street.
2. Matters raised by the Design Excellence Advisory Panel (DEAP) in relation to solar p/v panels, the driveway, landscaping, entry and materials.
3. Non-compliance with the non-discretionary development standards of the Housing SEPP, specifically the solar access to the affordable housing apartments and the deep soil provisions.
4. Shadow diagrams in plan and elevation form clearly indicating the additional overshadowing as a result of the height non-compliance to assess the variation to the development standard.
5. On-site waste collection must be accommodated on site.
6. Other matters in relation to parking, bicycles, the excessive size of the private roof terraces, the location of hydrant boosters, outdoor clothes drying areas and the provision of an Acoustic Report assessing the plant on the roof.

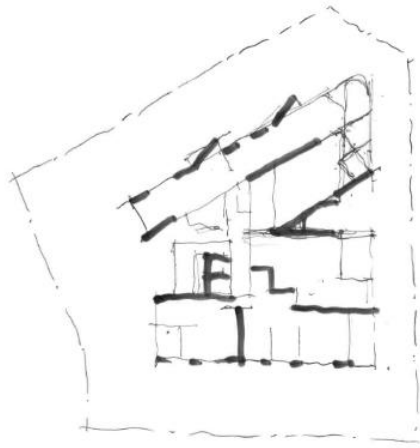
Amended plans and documentation were provided to Council on 2 September 2022. A further briefing in relation to the amended plans was held with the SECPP on 8 September 2022 with the following key issues raised:

- *Revised design includes one building with minimum 8.5m setbacks and separation distances.*
- *Proposal seeking full bonus under affordable housing provisions.*
- *Lift overrun/plant will exceed height development standard under relevant LEP with large communal open space.*
- *Additional overshadowing to the property at the rear of subject site.*
- *Bulk along Bondi Road, preference to step down with topography. Wider and deeper separation may be achieved in recess.*
- *Western elevation would benefit from articulation.*
- *Natural materials or brickwork should be explored, alternatives may include cladding other than timber batons or metallic bronze cladding that would maintain its colour in perpetuity.*
- *To be reconsidered by DEAP, tentatively scheduled for October 13 or November 9, 2022.*
- *Amenity of subterranean units.*

As a result of the comments received at the SECPP briefing, the amended plans were referred to the DEAP and the application was subsequently deferred again on 27 September 2022 for the following reasons:

The amended plans are considered to address Council's previous deferral letter in regard to the built form; however, there remains concerns with the urban design of the amended proposal. In this regard the amended proposal is required to be further refined as per the following:

- *The overall massing of the building to the north-east and north-west is very long and these elevations should be better articulated through indentation into the massing envelope and more significant expression through materials and detailing (eg. pop out windows). It is considered that it needs further consideration in order to integrate better into the streetscape. For instance, by increasing the gap in the building and remodelling the western half of the building so that it is all parallel to the western boundary, it will result in a deeper triangular plan shaped break in the building (see suggested draft plan below). This would aid in breaking down the form vertically. In addition, adding louvres to the eastern and western wall would aid with sun protection and articulation along the façades.*



- *The current expression to Bondi Road is only limited to an add on screen outside the building form and is not sufficient to ensure the recess is well defined to achieve a more pronounced visual break in this long elevation. The expression is required to be increased and improved as suggested above, otherwise consider stepping down the height of the building along Bondi Road.*
- *The entry is at the end of a long path with minimal planting on both sides. This could be improved with low walls either side, suitable to provided casual bump spaces. The planting is to be increased to improve the experience of the entry and consideration of a gate, portal or the like closer to Bondi Road that helps to mitigate CPTED issues, privacy at the street and announce entry through the architecture.*
- *Consider an extended awning/pergola with integrated planting over the driveway to improve the interface between the apartments above and vehicle entry and building servicing, however it is noted that bin collection occurs at this point of the driveway.*
- *Clarification of the specific materials and finishes selections and their weathering durability is required. Natural materials or brickwork should be explored, alternatives may include cladding other than timber batons or metallic bronze cladding that would maintain its colour in perpetuity.*
- *Retain existing significant trees along the rear boundary.*

Amended plans and documentation were received on 20 October 2022 and 8 November 2022 and form the subject of the assessment within this report.

2. 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).

2.1. Planning Instruments and Development Control Plans

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

2.1.1. State Environmental Planning Policies (SEPPs)

The following SEPPs apply from 1 March 2022 and have been considered acceptable in the assessment of this development application:

- SEPP (Building Sustainability Index – BASIX) 2004
- SEPP 65 (Design Quality of Residential Apartment Development) 2002
- SEPP (Housing) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP (Biodiversity and Conservation) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Planning Systems) 2021

A detailed discussion is provided for relevant SEPPs as follows:

SEPP (Housing) 2021

Chapter 2 Affordable housing

Part 2 division 1 of the Housing SEPP relates to development for the purposes of in-fill affordable housing. Accordingly, this Division, and the following clauses in **Table 1**, apply to the development application.

Clause 26 of the Environmental Planning and Assessment Regulations 2021 (the Regulations) states that:

- (1) *A development application for development to which [State Environmental Planning Policy \(Housing\) 2021](#), Chapter 2, Part 2, Division 1, 2 or 5 applies must specify the name of the registered community housing provider who will manage—*
- (a) for development to which Division 1 applies—the affordable housing component, or*
 - (b) for development to which Division 2 applies—the boarding house, or*
 - (c) for development to which Division 5 applies—the dwellings used for affordable housing.*

The applicant has nominated HomeGround Real Estate as the community housing provider. HomeGround Real Estate is a social enterprise of Bridge Housing, who are registered to manage properties under Affordable Housing schemes.

Table 1: SEPP (Housing) Infill Affordable Housing Compliance Table

Development Standard	Compliance	Planning Comment
16 – Development to which Division applies		
<p>(a) the development is permitted with consent under another environmental planning instrument, and</p> <p>(b) at least 20% of the gross floor area of the building resulting from the development will be used for the purposes of affordable housing, and</p> <p>(c) for development on land in the Greater Sydney region, Newcastle region or Wollongong region—all or part of the development is within an accessible area, and</p> <p>(d) for development on other land—all or part of the development is within 400m walking distance of land within 1 or more of the following zones or an equivalent land use zone— N/A</p>	Yes	<p>The subject site is zoned R4 <i>High Density Residential</i> and residential flat buildings are permissible with development consent.</p> <p>The development will provide 2,090m² as affordable housing being 50% of the total floor space (4,180m²).</p> <p>The site is located within 800m walking distance of Bondi Junction Railway Station and as such is located within an accessible area.</p>
17 - Floor space ratios		
<p>(1) (a) if the existing maximum floor space ratio is 2.5:1 or less:</p> <p>(i) 0.5:1—if the percentage of the gross floor area of the development that is used for affordable housing is 50 per cent or higher, or</p> <p>(ii) Y:1—if the percentage of the gross floor area of the development that is used for affordable housing is less than 50 per cent, where:</p> <p>AH is the percentage of the gross floor area of the development that is used for affordable housing.</p> <p>Y = AH ÷ 100</p>	Yes	<p>The maximum FSR for the site is 2:1 under Waverley LEP 2012.</p> <p>The proposal will provide 50% (2,090m²) of floor space as affordable housing and as such qualifies for the full 0.5:1 bonus. Therefore the proposal has an FSR of 2.5:1.</p> <p>The affordable housing apartments will be provided at the ground level and levels 1 to 7. There will be no affordable housing on Level 8. Of the 41 apartments proposed, 25 will be for affordable housing.</p>

Development Standard	Compliance	Planning Comment
18 - Non-discretionary development standards		
Site area: Minimum of 450m ²	Yes	The site is 1,673.1m ²
Landscaped area: <ul style="list-style-type: none"> At least 30% of the site landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area. 	Yes	<p>As per the definition within the Housing SEPP, the proposal provides (555m²) or 33% of the site as landscaped area.</p> <p>This figure includes only those areas at the ground level and it should be noted that the building is extensively landscaped with planters along the Bondi Road frontage to all balconies and the communal roof terrace also providing 321m² of landscaping (ie, planters with vegetation as outlined on the landscape plan) which is not included in the above calculation. If this area were to be included the proposal would provide the equivalent of 59% of the site for landscaping.</p>
Deep soil zone: <ul style="list-style-type: none"> At least 15% of site area; Min dimension of 3m; If practicable, at least 65% at rear. 	Yes	<p>The proposal provides 15.4% (257m²) of the site as deep soil that complies with the minimum dimension of 3m.</p> <p>Of the compliant deep soil zone, 58% is contained along the rear boundary with a minimum dimension of 3.5m.</p>
Solar access: <ul style="list-style-type: none"> Living rooms and POS of at least 70% of units receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter 	Yes	The proposal provides 76% (19 of 25 apartments) of the affordable housing units with 3 hours solar access to the principal area of private open space and living area windows.
Parking: (i) for each dwelling containing 1 bedroom—at least 0.5 parking spaces, or (ii) for each dwelling containing 2 bedrooms—at least 1 parking space, or (iii) for each dwelling containing at least 3 bedrooms—at least 1.5 parking spaces,	Yes	<p>The minimum parking under the Housing SEPP based on the affordable housing apartments is:</p> <ul style="list-style-type: none"> 1-bed: 7 x 0.5 = 3.5 2-bed: 16 x 1 = 16 3-bed: 2 x 1.5 = 3 <p>A total of 23 spaces is required for the affordable housing units. Given that the car park provides 40 spaces, the proposal is able to comply with the SEPP development standard. A condition to this effect is provided in Appendix A.</p>
Dwelling size: for development for the purposes	Yes	The affordable housing units comply with these requirements as detailed in Table 3.

Development Standard	Compliance	Planning Comment
of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment		
19 – Design requirements		
<p>Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the residential development is compatible with—</p> <p>(a) the desirable elements of the character of the local area, or</p> <p>(b) for precincts undergoing transition—the desired future character of the precinct.</p>	Yes	<p>Refer to Table 2 of this report for discussion in relation to the comments of the DEAP.</p> <p>The proposal is considered to appropriately respond to the emerging character of the local area. The amended proposal is consistent with the height, bulk and scale of surrounding recent development with a nine-storey built form being the emerging character of the area given the zoning of the site for high density development.</p>
20 – Continued application of SEPP 65		
Continued application of SEPP 65	Yes	SEPP 65 applies and is discussed in detail in Tables 2 and 3 of this report.
21 – Must be used for affordable housing for at least 15 years		
<p>Development consent must not be granted under this Division unless the consent authority is satisfied that for a period of at least 15 years commencing on the day an occupation certificate is issued—</p> <p>(a) the affordable housing component of the residential development will be used for affordable housing, and</p> <p>(b) the affordable housing component will be managed by a registered community housing provider.</p>	Yes	A condition to this effect is included in Appendix A .
22 – Subdivision permitted with consent		
Land on which development has been carried out under this Division may be subdivided with development consent.	N/A	No subdivision is proposed

SEPP (Design Quality of Residential Apartment Design)

The original application was referred to the DEAP on 8 June 2022; the first set of amended plans on 20 September 2022; and the final set of amended plans on 27 October 2022. The DEAP's comment of the

original proposed development against the nine design quality principles under Schedule 1 of SEPP 65 are set out in **Table 2** of this report with the final comments of the DEAP at subsequent meetings in relation to amended plans following.

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

<p>Principle 1: Context and Neighbourhood</p> <p><i>The proposal should respond to this principle in the following ways:</i></p> <ul style="list-style-type: none"> <i>The Applicant provided a detailed site analysis that explained the approach to the development that was configured to create an articulated frontage to Bondi Road with linked towers housing affordable rental units to the north-west and strata units to the south-east.</i> <i>While the attempt to break down the long street frontage was understood, the Panel recommended further studies be undertaken to accentuate the expression of the recess between the towers and so help create built forms that are more in character with other nearby buildings.</i>
<p>Principle 2: Built Form and Scale</p> <p><i>The proposal should respond to this principle in the following ways:</i></p> <ul style="list-style-type: none"> <i>With the built form in two distinct towers the Applicant explained the rationale for a naturally ventilated bridge linking the wings on all levels and sharing a common lift and services core,</i> <i>The Panel agreed that subject to compliance with relevant codes the GFA for the unenclosed common access could be excluded from FSR calculations but recommended that more consideration be given to potential weather and amenity issues with appropriate detailing of vertical screening across the bridge link.</i> <i>In the attempt to maximise the yield on the sloping site, it is proposed that the building is set down at ground level with a terraced and landscape perimeter for some units that have substantial undercroft areas. The Panel understood this might help with an acoustic buffer to Bondi Road but expressed concern about the possible subterranean feel that it might create and suggested further review of how this could be mitigated.</i> <i>Treatment of the fire stair with a batten screen that would also be naturally ventilated was seen as a positive feature that could also encourage resident use in lieu of lifts for access, and subject to BCA compliance would be able to exit via the ground floor lobby.</i>
<p>Principle 3: Density</p> <p><i>The proposal should respond to this principle in the following ways:</i></p> <ul style="list-style-type: none"> <i>The inclusion of affordable rental housing triggers an FSR benefit that generates a building envelope that appears in distant views to be larger in footprint than similar buildings in this precinct. It is therefore necessary for the Applicant to show clearly how the increased density can be managed to help mitigate the expression of building bulk, with further detail on how façade articulation and modelling can assist with associated view analysis.</i>

Principle 4: Sustainability

The proposal should respond to this principle in the following ways:

- *The Panel was pleased to see the inclusion of ceiling fans to living and bedrooms of all units, and recommended that solar p/v panels also be provided on the roof for power to communal areas.*
- *It was suggested that solar panel arrays could be installed in a manner that also created shade over an area adjacent the lift core access to the roof terrace.*

Principle 5: Landscape

The proposal should respond to this principle in the following ways:

- *Coordination between the architectural and landscape plans should be checked where a planter is shown along the north-east boundary adjacent to the carpark ramp.*
- *Scope for some pergola greenery should be considered above the carpark entry to improve the visual quality of the long driveway entry.*
- *The panel noted the high quality arborists report and coordination with the landscape plans in particular the relocation of a significant Canary Island palm from the Bondi Road frontage to the rear landscape.*

Principle 6: Amenity

The proposal should respond to this principle in the following ways:

- *Roof terraces should include accessible unisex toilet amenities and some shade provision that could incorporate a p/v solar array as noted above.*
- *Access stairs from penthouse units to roof terraces are open to the sky and may require some allowance for weather protection.*

Principle 7: Safety

The proposal should respond to this principle in the following ways:

- *The long entry path from Bondi Rd may create CPTED concerns for defensible space, and a security gate should be considered close to the front fence, along with provision for access to mailboxes and parcel delivery storage.*
- *Separation of private and communal roof terraces should be reviewed with possible palisade style fences within planters to ensure that resident security can be ensured.*

Principle 8: Housing Diversity and Social Interaction

The proposal should respond to this principle in the following ways:

- *The inclusion of affordable rental housing was agreed as a positive gesture in helping provide for this growing market need in the immediate area.*
- *To help encourage social interaction the Applicant is encouraged to consider provision of 'bump spaces' at the main entry and possibly in the upper- level circulation access.*

Principle 9: Aesthetics

The proposal should respond to this principle in the following ways:

- It is recommended that more specific materials selection be provided to confirm the actual finishes intended and their associated performance qualities.*
- The elevation to Bondi Rd includes large bedroom windows that, while providing some benefit in the façade composition, may have limited scope for natural ventilation and result in unfortunate outcomes where residents place furniture at the glass line. Suitable alternatives should be investigated and might include 'Juliette' balconies with sliding doors behind.*

The application was subsequently deferred to address a number of concerns including those raised by the DEAP. Amended plans were received on 2 September 2022 and these were referred to the DEAP on 20 September 2022 with the following comments raised:

- The Panel was encouraged by the more compliant side setbacks, but overall massing is very long to the NE & NW. These elevations should be better articulated through indentation into the massing envelope or more significant expression through materials and detailing (eg. pop out windows).*
- The current expression to Bondi Road is only limited to an add on screen outside the building form and is not sufficient to ensure the recess is well defined to achieve a more pronounced visual break in this long elevation. If this is achieved successfully then there would be no need to step the top floor.*
- The amendments to the roof to dedicate this space to communal use are strongly supported. The panel would further like to see some shade provided. This could be incorporated into a pergola structure utilizing the PV panels as shade and set back from the building perimeter so that it does not create any visual impact or amenity issues. The panel also recommended a multi age appropriate play space based on relevant Australian standards*
- Ground floor apartments are improved due to the increase in building separation. Combined with the extensive outdoor space these apartments are considered to provide amenity that counteracts any feeling of being below natural ground level.*
- The entry is at the end of a long path with minimal planting both sides that could also include low walls either side suitable to provided casual bump space. The panel suggests that planting be increased to improve the experience of entry and consideration of a gate, portal or the like closer to Bondi Road that helps to mitigate CPTED issues, privacy at the street and announce entry through the architecture.*
- An extended awning/pergola with integrated planting over the driveway would improve the interface between the apartments above and vehicle entry and building servicing. This should be integrated into the proposal.*
- The Panel considered that proposed material and finishes were appropriate subject to clarification of the specific selections and their weathering durability.*

The proposal was again deferred and the final amended plans were provided to Council on 18 October 2022. These plans were again referred to the DEAP on 27 October 2022 with the following comments provided:

- *The changes seem to address all comments in the DRP response dated 20/09/22 with the exception of treatment around lift tower on roof terrace.*
- *The new materiality is still consistent with the previous applications. Built form is largely improved through increased articulation. The eastern elevation has been amended to increase articulation.*
- *A cluster of small native palms at the circular planter at the ground floor entry. Currently planting is a small evergreen Magnolia, I believe the space needs a more significant planting option.*
- *Previous comment provided from the Panel regarding the treatment around the lift tower on roof terrace:*

‘The panel would further like to see some shade provided. This could be incorporated into a pergola structure utilising the PV panels as shade and set back from the building perimeter so that it does not create any visual impact or amenity issues.’

Better visual integration of this pop-up element would be achieved with a canopy and pergola across the eastern edge of lift tower and be included as part of Cl 4.6 variation, providing weather protection without any real impacts.

The provision of a canopy or pergola at the roof level to the communal open space would exceed the height development standard of the Waverley LEP 2012. In this regard, Council cannot make recommendations which force a non-compliance with a development standard in the absence of a written objection to the development standard under Clause 4.6 of the LEP.

A condition regarding the planting in the small circular planter at the entry to the building is included in the consent conditions.

The amended proposal is considered to meet the design principles of SEPP 65 and achieves design excellence.

Apartment Design Guide

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

Table 3: Apartment Design Guide

Design Criteria	Compliance	Comment
Part 3 Siting the development		
3A Site analysis	Yes	The amended proposal has considered the site, local and wider context.
3B Orientation	Yes	The proposed building has been orientated and designed to relate to the shape of the site,

Design Criteria	Compliance	Comment
		location of neighbouring buildings and public domain. Overshadowing is discussed in detail in section 2.1.2 and 2.1.3 of this report.
3C Public domain interface	Yes	The proposed residential flat building provides a successful interface with the public domain.
3D Communal and public open space <ul style="list-style-type: none"> • Minimum of 25% of site • Minimum of 50% direct sunlight to the principal usable part on winter solstice 	Yes	<p>The proposal will provide a total of 420m² of communal open space (equivalent to 25% of the site area) comprised of the following:</p> <ul style="list-style-type: none"> • 70m² of communal open space at ground level; and • 350m² of rooftop communal open space. <p>The entirety of the rooftop communal space will receive sufficient solar access.</p> <p>The proposal provides an accessible communal open space area at the roof level with shared seating that receives sufficient solar access.</p> <p>Additionally, the rear, side and front setbacks will be extensively landscaped.</p> <p>The proposal provides sufficient areas of communal space and landscaping to satisfy the intent of the controls.</p>
3E Deep soil zones <ul style="list-style-type: none"> • 7% of the site, deep soil zones should be provided • 6m min width 	Yes	<p>Refer to previous discussion in Table 1 under the Housing SEPP regarding deep soil requirements. The deep soil requirement is a development standard within the Housing SEPP and overrides the requirements for deep soil in the ADG.</p> <p>The rear deep soil zone has a varying width of only 3.5-6m however provides sufficient area for the planting of trees along the rear boundary and sufficient remaining areas around the basement footprint for extensive landscaping of the site. In particular, sufficient vegetation within the front setback is provided to act as a buffer to Bondi Road.</p>
3F Visual privacy Min separation distances from buildings to side and rear boundaries: <ul style="list-style-type: none"> • Up to 12m– 6m habitable & 3m non-habitable • Up to 25m - 9m habitable & 	No	Refer to detailed discussion following this table.

Design Criteria	Compliance	Comment
4.5m non-habitable • Over 25m – 12m habitable & 6m non-habitable		
3G Pedestrian access and entries	Yes	The main entry lobby from Bondi Road is connected to and addresses the public domain, is accessible and easily identifiable and provides a strong connection with the streetscape.
3H Vehicle access	Yes	Vehicular access is provided from Waverley Crescent as per the existing building on the site and is considered the most appropriate point being removed from Bondi Road to reduce queuing, congestion and minimising pedestrian conflicts.
3J Bicycle and car parking The minimum off-street residential parking spaces as set out in the <i>Guide to Traffic Generating Developments 2002</i> by the then NSW Roads and Traffic Authority, of the car parking requirement prescribed by the relevant council, whichever is less , are applicable to development within metropolitan regional centres: The rates within the <i>Guide to Traffic Generating Developments 2002</i> are as follows: <ul style="list-style-type: none"> • 0.4 resident spaces per one-bedroom unit • 0.7 resident spaces per two-bedroom unit • 1.2 spaces per three-bedroom unit • 1 visitor space per seven units. 	Yes	<p>The parking for the affordable housing apartments is discussed previously under the Housing SEPP.</p> <p>In terms of the general apartments (or those apartments that are not affordable housing), the proposed development falls within the design criteria of Objective 3J-1 as it is located within 800m of a railway station in the Sydney Metropolitan Area. As such, the ADG requires that the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Development or the car parking requirement prescribed by the relevant council, whichever is less. DCP 2012 sets rates for car parking with a minimum of nil. In this regard, the DCP applies to the car parking for this site.</p> <p>Refer to discussion in Table 5 of this report on the appropriateness of the total quantum of car parking spaces in the development against the car parking rates set out in DCP, which provide a lesser minimum amount of car parking than the rates specified by the <i>Guide to Traffic Generating Development 2002</i>. The rates set out in the DCP as a maximum are considered the 'maximum' car parking rates for the proposal and are discussed later in this report.</p> <p>The development will promote the use of other modes of transport by providing parking and storage facilities for motorcycles and bicycles.</p>
Part 4 – Designing the building		
4A Solar and daylight access • Living rooms and private open spaces of at least 70%	Yes	• 33 out of 41 apartments (80% of all units) receive at least 2 hours mid-winter to living areas and private open spaces.

Design Criteria	Compliance	Comment
<p>of units receive minimum of 2 hours direct sunlight between 9am-3pm mid-winter</p> <ul style="list-style-type: none"> A maximum of 15% receive no direct sunlight between 9am-3pm mid-winter. 	Yes	<ul style="list-style-type: none"> 1 out of 41 apartments (2.5% of all units) receives no direct sunlight mid-winter. <p>The amended plans have provided pop-out windows to the living areas of the south facing apartments in the south-east corner of the development. This enables 97.5% of apartments to receive some direct solar access in mid-winter.</p> <p>The proposal is consistent with the remaining objectives of this part of the ADG ensuring that daylight access is satisfactory and incorporating shading in the warmer months.</p>
<p>4B Natural ventilation</p> <ul style="list-style-type: none"> All habitable rooms are naturally ventilated Number of units with natural cross ventilation is maximised: <ul style="list-style-type: none"> At least 60% of units naturally ventilated 	Yes	<ul style="list-style-type: none"> All habitable rooms are provided with at least one window for natural ventilation. 95% of the units have dual aspects and can be naturally cross ventilated. <p>The proposal uses a combination of full height openable doors and windows to achieve appropriate cross ventilation within the building.</p>
<p>4C Ceiling heights</p> <ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable rooms – 2.4m 	Yes	<p>The ceiling heights within all units comply with the minimum requirement. All units provide 3.1m floor-to-floor which is sufficient to meet the ceiling height requirements.</p>
<p>4D Apartment size and layout</p> <p>The following minimum internal areas apply:</p> <ul style="list-style-type: none"> <i>Studio = 35 m²</i> <i>1 Bed = 50 m²</i> <i>2 Bed = 70 m²</i> <i>3 Bed = 90 m²</i> <i>Add 5m² for each additional bathroom (above 1)</i> <i>Add 12m² for each additional bedroom</i> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p>	Yes	<p>All units have internal areas that meet the minimum ADG requirements. In this regard, the proposed unit sizes and layout are acceptable.</p> <p>Windows are provided to each habitable room.</p> <p>Bedrooms generally meet the minimum requirements in terms of dimensions and area.</p> <p>Kitchens are separate to the circulation spaces.</p> <p>The proposal is consistent with the objectives of this part of the ADG.</p>
<p>4E Private open space and balconies</p>	Yes	<p>100% of the units are provided with a balcony or courtyard accessed from the main living areas that meets the minimum requirements of the</p>

Design Criteria	Compliance	Comment
<p>All apartments provide primary balcony as follows:</p> <ul style="list-style-type: none"> • 1-bed – 8m² & 2m depth • 2-bed - 10m² & 2m depth • 3+bed - 12m² & 2.4m depth • Ground level, min 15m² & 3m depth 		<p>ADG in terms of area and depth.</p> <p>The balconies and courtyards are accessed from the main living area and the majority are orientated to the north.</p> <p>The design of the balconies and courtyards is integrated into, and contributes to, the architectural form and detail of the building. The finishes of the balconies are consistent with the contemporary palette of materials in the building overall. Balconies are angled or screened to prevent direct cross-viewing between balconies to enhance privacy.</p>
<p>4F Common circulation and spaces</p> <ul style="list-style-type: none"> • Max of 8 units accessed off a circulation core on a single level • Common circulation spaces promote safety and provide for social interaction between residents. 	Yes	<p>The main lobby provides two lifts providing access to a maximum of 5 apartments on each level.</p>
<p>4G Storage</p> <p>In addition to kitchens, bathrooms and bedrooms, the following is provided:</p> <ul style="list-style-type: none"> • 1-bed – 6m³ • 2-bed – 8m³ • 3+bed – 10m³ <p>At least 50% is to be located within the apartment</p>	Yes	<p>The proposal provides separate storage within each apartment with some apartments also having a storage cage in the basement car park. The storage provided meets the requirements and objectives of the ADG.</p> <p>Additionally, many of the bedroom wardrobes exceed the minimum requirements.</p>
<p>4H Acoustic privacy</p>	Yes	<p>An Acoustic Report was provided with the application and is discussed later in this report (refer to discussion regarding the Transport and Infrastructure SEPP).</p> <p>The proposal is accompanied by a site analysis that has considered the constraints of the site and the exposure of individual apartments to acoustic privacy impacts. Each habitable room has been designed to protect the acoustic privacy of future occupants and surrounding buildings.</p>
<p>4J Noise and pollution</p>	Yes	<p>An acoustic assessment has been provided to consider the impacts from Bondi Road and vibration and mechanical plant.</p> <p>Recommendations have been made to minimise</p>

Design Criteria	Compliance	Comment
		impacts from noise meeting section 4J of the ADG.
4K Apartment mix	Yes	The proposal includes one, two and three-bedroom apartments that will support a wide variety of household types and sizes. The apartment mix is considered appropriate taking into consideration the sites proximity to public transport options and the high density urban environment.
4L Ground floor apartments	Yes	The ground floor apartments have been designed to be orientated toward the street and the rear, with access to large private landscaped courtyards.
4M Facades	Yes	The proposed building provides an interesting architectural design with each façade contributing to the visual interest of the building and character of the local area.
4N Roof design	Yes	The roof design has a cohesive relationship with the overall building design and streetscape. The plant on the roof and communal area are set back from the building edge to reduce visibility from the public domain.
4O Landscape design	Yes	<p>The proposed landscaping of the site is diverse with landscaping incorporated on all boundaries. Extensive landscaping is provided along Bondi Road, contributing to the streetscape and providing a buffer to the traffic volumes on Bondi Road. Additionally, landscaping and large trees are included on the rear and eastern side boundaries to provide privacy to the subject development and adjoining properties.</p> <p>The proposed landscaping responds to the conditions of the site and is appropriate in this high density area.</p>
4P Planting on structures	Yes	The landscape plans address the objectives and design criteria in 4P of the ADG. Additionally, a condition regarding planting on structures is included in Appendix A .
4Q Universal Design	Yes	A condition is recommended to ensure that all apartments achieve a benchmark of silver level universal design features in accordance with the DCP (refer to Table 5).
4U Energy efficiency	Yes	Apartments within the building incorporate passive environmental design, meeting the cross-ventilation requirements in the ADG.

Design Criteria	Compliance	Comment
		Natural ventilation is incorporated in all apartments reducing the need for mechanical ventilation and climate control. Notwithstanding, and as discussed in detail later in this report, the apartments need to incorporate a forced ventilation system due to the requirements of the Transport and Infrastructure SEPP and proximity to Bondi Road.
4V Water management and conservation	Yes	A BASIX Certificate has been provided with the application which indicates that the proposal will meet the required water target.
4W Waste management	Yes	<p>The waste and recycling storage area is located in the basement in a location convenient for users of the site. The proposal provides a waste holding area adjacent to the basement driveway to allow garbage trucks to collect from within the site. This is consistent with the requirements of the DCP for onsite collection for a development of this scale.</p> <p>Each level is provided with a garbage chute for transportation of waste to the garbage room in the basement.</p>
4X Building maintenance	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 in the event of approval.

The following is a detailed discussion of the issues identified in Table 3 of this report in relation to the ADG.

Separation Distances

The ADG requires the following separation distances between windows and balconies to side and rear boundaries:

- Up to 25m - 9m habitable and 4.5m non-habitable
- Over 25m – 12m habitable and 6m non-habitable.

Design guidance of the ADG suggests that generally one step in the built form as the height increases is desirable to avoid a 'ziggurat' appearance.

Separation distances are not the same as a setback. A separation distance only applies where there is a window or a balcony and varies according to the use of each room beyond (eg, habitable or non-

habitable). It should be noted that the habitable levels of the building are predominantly contained below 25m in height as the proposal provides the majority of the ground floor level of the building below the existing ground level. This is particularly evident at the rear where the proposal rises eight storeys above the existing ground level with the majority of the lower level being excavated below ground. That part of the building where the habitable levels meet the 28m height control are located on the north-western corner opposite No. 21 Waverley Crescent at the front of the site and structures on the roof. Technically, the separation distance for most of the building should therefore be those that relate to a building below 25m in height (ie, 9m from the sides and rear for habitable rooms and balconies).

That part of the building where habitable levels are above 25m and should therefore technically provide a greater separation distance of 12m is the front north-western corner adjoining 21 Waverley Crescent and the communal roof terrace.

The proposal has been amended since it was first submitted to increase the separation distances from the side boundaries. The first scheme, and the previously approved nine-storey building on this site, provided 6.5m from the side boundaries. The amended proposal provides 8.4m to windows and balconies from the side boundaries and a minimum of 9m from the rear at all levels with no step in the building form.

The proposal provides 8.4m from the western boundary shared with a recently constructed nine-storey building at 21 Waverley Crescent. The building at 21 Waverley Crescent has separation distances of predominantly 3m from the shared boundary; however, has been designed to have the main living area windows and balconies located on the front, rear and opposite elevation, facing away from the subject site due to the very minimal separation distances this building provides. The windows which are orientated toward the subject site are to non-habitable rooms, are screened or designed to protect privacy (snorkel type). The windows on the western elevation of the subject proposal employ a similar response with the main living area windows being orientated toward the front and rear and windows to non-habitable rooms or bedrooms being located on the side elevation. Generally, bedroom windows are considered low use rooms with fewer privacy impacts given that these are generally used for passive activities, such as sleeping or resting. Where living area windows are located on the western elevation they are located toward the front corner of the building, at the top floor level or designed as 'pop-out' windows with views being angled away from the adjoining site. The upper floor level is marginally recessed from the level below and located opposite the roof of the adjoining building. Accordingly, the privacy impacts, particularly given that the windows on the opposing elevation of 21 Waverley Crescent are screened, will not be unreasonable.

A similar situation arises on the opposite side boundary where the separation distances to windows and balconies are slightly substandard to the requirements of the ADG (8.45m rather than 9m). The adjoining building to the east is a two-storey residential flat building with minimal side setbacks. The subject proposal has been designed to contain the main living area windows on the front and rear with predominantly non-habitable and bedroom windows on the side elevation. There are instances where the windows on the side are full height glazing; however, this is contained toward the front of the side

elevation and at the upper floor level. Given that the proposal varies the 9m separation distance only marginally (ie, 550mm), this is considered acceptable.

The proposal provides windows and balconies on the rear elevation however these within the required 9m separation distances and as such any visual or acoustic privacy impacts are considered reasonable. As previously stated, the proposal provides eight storeys above the existing ground level (the lower level is excavated at the rear) and therefore increased separation distances to the upper floor level are technically not required.

This part of Bondi Junction is an area undergoing change and there are a number of recently constructed residential flat buildings within proximity of the site. The recent approvals of residential flat buildings within the vicinity of the site have established a strong rhythm where smaller building separations have been deemed appropriate. In most cases, the setbacks from side boundaries are 6m however within the immediate vicinity of the site, including the nine-storey residential flat buildings to the east and west, setbacks are as low as 2.4m to 3m. As has been common for many of these buildings, screening of habitable windows has been considered an effective solution for the reduced side boundary setbacks.

The proposal includes a communal roof terrace largely above the 25m height limit and as such, a greater separation distance of 12m is required. The western useable area of the roof terrace is approximately 20m from the rear boundary however is 9.4m from the boundary and 10.6m from the western boundary. In order to ensure that visual and acoustic privacy impacts from the roof terraces are within reasonable limits, a condition will require that the useable area (ie, trafficable) is at least 12m from each side boundary. This will result in increased landscaping at the roof level and on the site. The communal roof terrace is further discussed in Section 2.1.3 of this report and it is noted that a condition will also limit the hours of use of this area to further limit impacts upon surrounding properties.

The proposal provides much greater separation distances and setbacks than other buildings within the area and given the above analysis, it is considered that the amended design has reasonably addressed the separation distances of the ADG and privacy impacts and the proposal is considered acceptable in this regard.

SEPP (Transport and Infrastructure) 2021

Subdivision 2 – Development in or adjacent to road corridors and road reservations

2.119 Development with frontage to classified road

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*

- (ii) the emission of smoke or dust from the development, or*
- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal has a frontage to Bondi Road which is a classified road however vehicular access to the site is provided from Waverley Crescent. The driveway location in Waverley Crescent is considered the most appropriate vehicular entry point ensuring limited queuing on Bondi Road, particularly as the site is located within proximity of the busy intersection of Bondi Road, Waverley Street and Council Street.

The proposal for 41 apartments with 40 parking spaces will not result in unacceptable or unreasonable frequency of vehicles using the classified road, particularly given the zoning of the site for high density residential development.

In accordance with subclause (2)(c) above, an acoustic report has been provided with the application which assesses the noise intrusion from Bondi Road in addition to the noise emissions from the development itself. The Acoustic Report concludes that:

Internal noise levels are predicted to comply with the requirements of the following documentation, subsequent to the incorporation of the facade recommendations outlined within Section 5.2:

- *State Environment Planning Policy (Infrastructure) 2007 (SEPP(Infrastructure) (NSW legislation)*
- *Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008))*
- *Australian Standard AS 3671 – Road Traffic Noise Intrusion Guidelines*

The Acoustic Report makes a number of recommendations in relation to the Bondi Road façade in order to achieve this, including:

- All windows and glazed doors should be fitted with full perimeter acoustic compression seals and installed in frames that will not lower the acoustic rating. All operable windows are to be installed with Q-Lon seals. Weather or fin seals are not acceptable.
- The building should be designed so that there is sufficient ventilation to comply with the requirements of the Building Code of Australia when windows are closed. Due to the high external noise levels due to traffic on Bondi Road, this will likely require forced ventilation. This should be designed so any fresh air intake vents are not located on the façade facing Bondi Road.
- The minimum R_w rating for each window type has also been provided and alternative glazing treatments may be selected if they achieve the corresponding R_w rating.

The proposal is considered to adequately address the provisions of 2.119 of SEPP (Transport and Infrastructure) 2021.

2.120 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration:
 - (a) residential accommodation,*
 - (b) a place of public worship,*
 - (c) a hospital,*
 - (d) an educational establishment or centre-based child care facility.**
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.*
- (3) 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 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.**

Bondi Road has an average daily traffic volume in excess of 20,000 vehicles and as detailed above, an acoustic report has been provided with the application which assesses the noise intrusion from Bondi Road and provides recommendations in order to achieve the stated noise criteria in 2.120 (3) above.

In terms of clause 2.120 (2) above, which requires Council to consider any guidelines for the purposes of this clause, *Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008)* has been considered. The Acoustic Report adequately addresses this guideline in terms of the acoustic treatment of the apartments. In terms of air quality, the northern balconies are expected to experience high mean velocities from high north easterly winds, enabling pollutants to be dispersed. The apartments fronting Bondi Road will be dual aspect allowing for natural cross ventilation, however only when windows are open, which due to the noise from Bondi Road may be an issue. The Acoustic Report recommends that due to the high external noise levels due to traffic on Bondi Road, this will likely require forced ventilation. Any forced ventilation system should be designed so that any fresh air intake vents are not located on the façade facing Bondi Road. In the event of approval, this would be required by condition.

It is considered that the requirements of the SEPP (Traffic and Infrastructure) 2021 have been appropriately considered and addressed.

SEPP (Biodiversity and Conservation) 2021

Chapter 10 Sydney Harbour Catchment

The Bondi Junction Centre is captured by the former Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, which has been repealed and incorporated in Chapter 10 of SEPP (Biodiversity and Conservation) 2021, as it is part of land identified on the Sydney Harbour Catchment Map referred to in section 10.2 of the SEPP. Therefore, the matters for consideration under Division 2 of the SEPP 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 sections 10.19 to 10.22 and 10.24 to 10.27 of the SEPP:

- 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;
- floating boat platforms; and
- mooring pens.

The proposed development will be partially visible from the immediate foreshores and waterways of Sydney Harbour and therefore section 10.23 of the SEPP is to be taken into consideration in the assessment of the application.

The majority of the proposed development is obscured by residential and commercial towers to the west on Oxford Street. The proposed development will contribute to the tower form of the Bondi Junction skyline providing an appropriate transition in height to the larger buildings on Oxford Street. The proposed development is expected to have a negligible impact on the visual and scenic qualities of Sydney Harbour, including its islands, foreshores and tributaries. The proposed development is considered acceptable with regards to the relevant matters for consideration under the SEPP.

2.1.2. 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 4: Waverley LEP 2012 Compliance Table

Provision	Compliance	Comment
Part 1 Preliminary		
1.2 Aims of plan	Yes	The proposed development is consistent with the relevant aims of the LEP.

Provision	Compliance	Comment
Part 2 Permitted or prohibited development		
Land Use Table R4 High Density Residential Zone	Yes	The land use is defined as a residential flat building, which is permitted with consent in the R4 zone.
Part 4 Principal development standards		
4.3 Height of buildings • 28m	No	The maximum height is 30.25m exceeding the development standard by 2.25m or 8%.
4.4 Floor space ratio • 2:1	Yes	The maximum FSR for the site is 2:1 under LEP 2012. The proposal has an FSR of 2.5:1. The proposal will provide 50% (2090m ²) of floor space as affordable housing and as such qualifies for the full 0.5:1 bonus under the Housing SEPP as discussed in Table 1 of this report.
4.6 Exceptions to development standards	See discussion	The application is accompanied by a written request pursuant to clause 4.6 of Waverley LEP 2012 to vary the height development standard. A detailed discussion of the variation to the development standard is presented below this table.
Part 5 Miscellaneous provisions		
5.10 Heritage conservation	Yes	The site is not within a heritage conservation area or heritage listed. However, the site is located opposite a heritage listed item at 24 Bondi Road. The proposal will not be read within the streetscape of the heritage item being located on the southern side of Bondi Road where high-density development to a height of 28m is permitted. There are sufficient separation distances from the proposed new building to the item and overshadowing will not occur. The proposal is separated from the heritage-listed building by Bondi Road and as such is unlikely to impact the significance of the heritage item.
Part 6 Additional local provisions		
6.2 Earthworks	Yes	The proposal includes excavation of the site to provide a car park. A Preliminary Geotechnical Investigation was provided that provides general geotechnical advice and recommends further testing, dilapidation surveys of adjoining properties and further inspections and vibration monitoring.

Provision	Compliance	Comment
		The excavation is considered acceptable in this regard.

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 (Height)

The application seeks to vary the height of buildings development standard in clause 4.3 under Waverley LEP 2012.

The site is subject to a maximum height development standard of 28m. The proposed development has a height of 30.25m, exceeding the standard by 2.25m equating to a variation of 8%.

A written request has been submitted to Council in accordance with clause 4.6(3)(a) and (b) of Waverley LEP 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 amenity of the neighbouring properties is preserved to the extent anticipated by a height compliant development, such that the proposed additional height at the rooftop level does not cause any diminution of their amenity.*
 - (ii) *Rooftop terraces are part of the emerging and desired character of Bondi Junction as contemplated in the Waverley Development Control Plan and the Apartment Design Guide.*
 - (iii) *In relation to privacy, the height of the proposed terrace in this case is elevated above the windows and balconies of the adjoining properties and has perimeter planting and balustrades that are inset from the edge of the building to eliminate direct and downward sightlines into those properties.*
 - (iv) *With respect to overshadowing, detailed analysis accompanies the application that demonstrates the negligible and inconsequential impacts associated with the elements breaching the height controls.*
 - (v) *Whilst there is a measurable impact arising from the height variation at 9am (only), there are significant and meaningful solar gains to all surrounding buildings for the entire day*

attributable to the overwhelming proportion of the building being below the height limit. The slither of impact at 9am does not materially affect the amenity experienced by the neighbouring properties, noting the impact is measurably minute and short-lived. In contrast, the solar gains offer benefits to multiple properties for the whole day.

- (vi) The proposed building appropriately shares views despite the variation to the height limit, as there are no view impacts associated with the areas of height breach. 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.*
 - (vii) The height of the proposed building is comparable to surrounding and adjoining residential towers.*
 - (viii) The height, bulk and scale of the building is compatible with the desired future character of the locality as the principal components of the building comply with the height standard, with embellishments at the roof level that have no consequence on the character of the locality other than to offer an increased amenity for high density living and the opportunity of a vegetated roof perimeter as viewed from the street at oblique angles looking skyward.*
 - (ix) Strict compliance could be more readily achieved through removal of the rooftop amenities. This would result in unreasonable and unnecessary consequences on the amenity of the proposed units that would otherwise rely on comparatively lower amenity ground floor open space areas for communal activity that is heavily overshadowed by the development and overlooked by adjoining residential towers.*
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:*
- (i) The scale of the buildings is 9 storeys as anticipated by the controls, with no storeys or accommodation above the height plane.*
 - (ii) The elements above the height plane associated with the lift and stair overruns are required to offer equitable and fire-safe access to a high amenity communal rooftop area necessary to facilitate compliance with minimum communal area controls, noting the Apartment Design Guide promotes communal terraces.*
 - (iii) The elements above the height plane associated with the NE corner of the site are a direct result of providing a consistent architectural design to the building notwithstanding a dip in the topography of the site in this corner that causes an imperceptible and inconsequential non-compliance.*
 - (iv) The aspects of the development that breach the height standards can be justified as the proposal provides a consistent scale with neighbouring development. This can be described as an environmental planning ground because the quality and form of the immediate built environment of the development site creates unique opportunities and constraints to achieving a good design outcome.*
 - (v) The scale of the building is consistent with building envelope controls outlined in the DCP that dictate the future desired character, particularly with regards to height and setbacks.*

- (vi) *The materials and finishes to the areas of height breach are purposefully recessive and are viewed as embellishments above the top of the building, limited in size to their functional requirements, and softened by landscaping.*
- (vii) *The design satisfies the Object 1(g) of the EP&A Act 1979 which seeks to promote good design and amenity of the built environment.*
- (viii) *The proposal is consistent with the objectives of the height development standard and the objectives of the zone.*

Consideration of Applicant's 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 development 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 justifications 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; and*
- (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.*

The applicant specifically relies upon justification (a) outlined above to address clause 4.6(3)(a) of Waverley LEP 2012. This is sound justification as the applicant has adequately and accurately demonstrated that the variation to the development standard preserves the environmental amenity of

neighbouring properties and public spaces in terms of maintaining solar access, sharing views and minimising visual and other amenity impacts to levels that would be reasonably expected for a building that strictly complied with the development standard. Further, the variation will not result in the proposed development being incompatible with the height, bulk or scale of the desired future character of the locality. The variation will also not be readily discerned when viewed at street level and the surrounding public domain, and therefore, the development will positively contribute and contribute to the physical definition of the surrounding street network and public spaces. These statements are discussed and demonstrated in the succeeding paragraphs of this section and other sections of this report.

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 development standard.

The written request has outlined the minimal consequences of the non-compliance upon the environmental amenity of surrounding properties and the streetscape and sufficiently argued that these consequences are reasonable. The written request has also highlighted that the extent of the non-compliance is minimal and provides a convincing argument that strict compliance would be burdensome on the proposal achieving orderly and economic use of the site to accommodate additional housing stock in the locality. Discussion below justifies how the development achieves the objectives of the development standard and the zone objectives despite the non-compliance with the development 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 development standard and the objectives for development within the zone in which the development is proposed to be carried out.

The objectives of the height development standard that applied at the time of lodgement of the application are as follows:

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

The subject site is not contained within the area designated as the Bondi Junction Centre and as such, objectives (b) and (c) do not apply. An assessment against the remaining objectives is provided below.

The following images provided by the Applicant demonstrate the extent of the height variation across the roof plane and indicates that only the north-western corner of the roof, the lift overrun and fire stair roof exceed the height development standard. The lift overrun exceeds the development standard by 2.25m or 8%, the fire stairs by 800mm or 2.8% and the north-western corner by 1.25m or 4.5%.

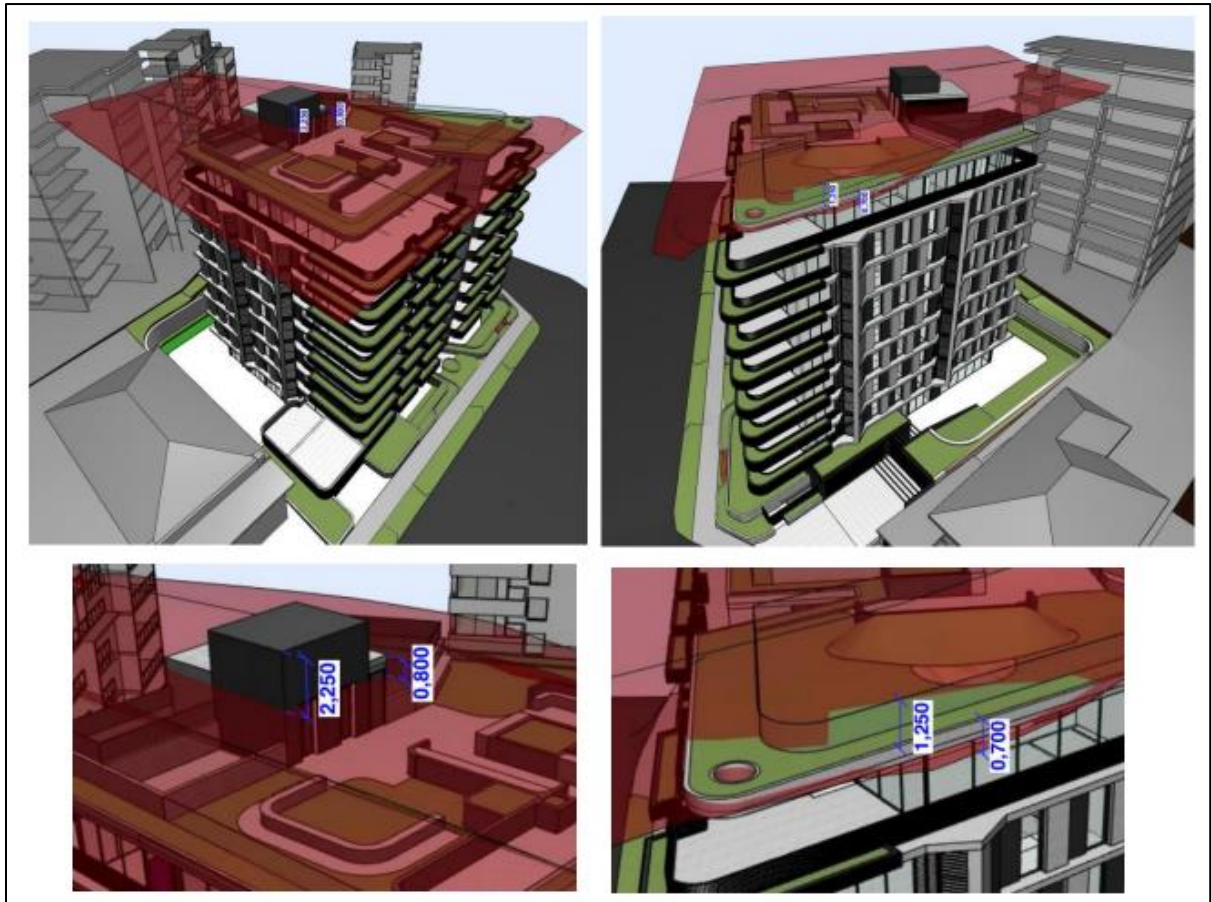


Figure 9: Height plane diagram

(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 majority of the proposed development is contained within the height development standard for the site. The exception to this is a small portion on the north-western (front) corner of the building and the roof plant in some sections.

The impact from new developments that are compliant with increased development standards is significantly greater than impacts from sites which are currently underdeveloped, however if the development meets all relevant standards and controls, these impacts are accepted as being generally anticipated by the controls. The purpose of development standards is to stipulate the maximum development potential of a site to provide certainty to the public and facilitate the economic and orderly use of land. Where the proposal exceeds the maximum development standards, the impact of

the variation is more heavily scrutinised particularly in relation to preserving the amenity of surrounding properties.

The proposed variation to the development standard is considered against the following heads of consideration to determine whether it preserves the environmental amenity of neighbouring properties and public spaces:

- overshadowing;
- view loss;
- visual impact; and
- other amenity impacts, such as visual and acoustic privacy.

Each aspect or consideration is considered individually as follows:

Overshadowing

The proposal will result in additional overshadowing of surrounding properties, particularly the residential flat building to the south and the adjoining residential flat building to the east.

The amended proposal is accompanied by detailed shadow analysis in the form of ‘view from the sun’ and plan and elevational form shadow diagrams prepared in hourly increments between 9am and 3pm on 21 June. The plan and elevational shadow diagrams indicate a ‘permissible height compliant’ shadow, based on a development that would meet the height development standard across the entire built form (noting that the proposal does not achieve the maximum height development standard at the rear and only exceeds the height in small areas). The diagrams also distinguish parts of the overall shadowing of the development that may be specifically caused by the variations to the height of buildings development standard.

The shadow diagrams indicate that the variation to the height development standard will result in additional overshadowing (ie, that beyond a height compliant form) only at 9am. For the remainder of the day, the overshadowing caused by the height variation will fall within the overshadowing caused by that part of the building that complies with the height development standard. As demonstrated in **Figure 10** below, at 9am the additional overshadowing falls onto the side wall of 21 Waverley Crescent and over the balcony balustrade of two apartments at 42-48 Waverley Street at the rear.

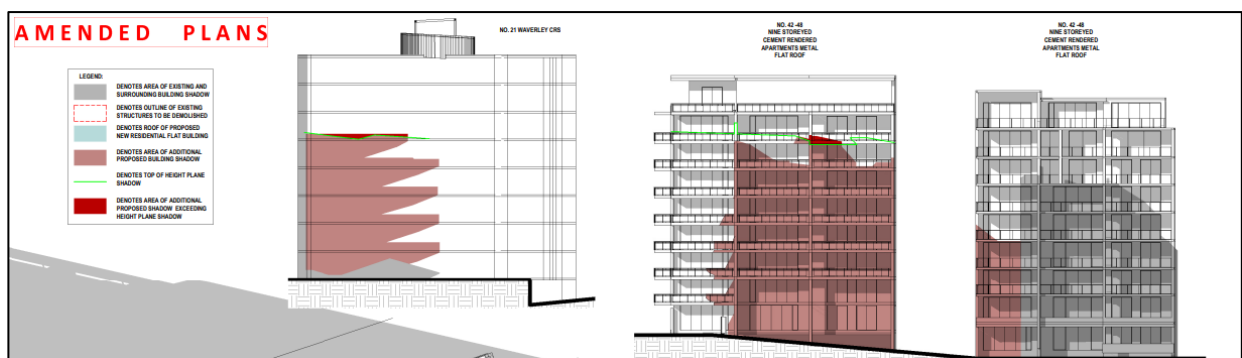


Figure 10: Extract from shadow diagrams indicating the extent of the additional overshadowing as a

result of the variations to the height development standard

It is noted that the balconies are tinted glass and photographs taken during the assessment of previous applications indicate that solar access does not penetrate the balustrade glass. In this regard, the proposal will preserve the amenity of surrounding properties in terms of overshadowing impacts.

Views and view sharing

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 assessment of previous applications for this site a number of apartments within the following properties were visited for the purposes of view assessment:

- Apartments within the nine-storey residential flat building to the rear (south) 42-48 Waverley Street; and
- Apartments within the three-storey residential flat building to the east at 21 Bondi Road.

These properties were not revisited as part of the assessment of the current application, and the photographs taken have been used in the assessment of this application. It should be noted; however, that since these photographs were taken a nine-storey building has been constructed at 21 Waverley Crescent which has impacted upon some views. There is also a current approval for a nine-storey building across part of the subject site (7-11 Bondi Road) with side setbacks of 6.5m. In this regard, much of the views experienced by adjoining properties has already been heavily impacted by recently constructed, or yet to be constructed, development upon the sites fronting Bondi Road.

No. 42-48 Waverley Street is located to the rear of the site and is comprised of two buildings, being the eastern building and the western building. These buildings achieve views over side and rear boundaries of the subject site being partial and distant views of water. No. 21 Bondi Road has views across the side boundary to the harbour and City skyline. It is not a reasonable expectation to retain views over an underdeveloped site. The retention of private views at the expense of the reasonable redevelopment of an adjoining site is not a realistic expectation. In this regard, the view loss experienced as a result of the compliant development form is not considered unreasonable.

As detailed previously, where the proposal exceeds the maximum development standards, the impact of the variation is more heavily scrutinised particularly in relation to preserving the amenity of surrounding properties. That part of the building that exceeds the height development standard is confined to the roof area and the front corner of the building. As demonstrated by the section in **Figure 11** below, the variation to the height is contained above the sightlines from the residential flat building at the rear and therefore the variation has no greater impact upon views than a height compliant building would have.

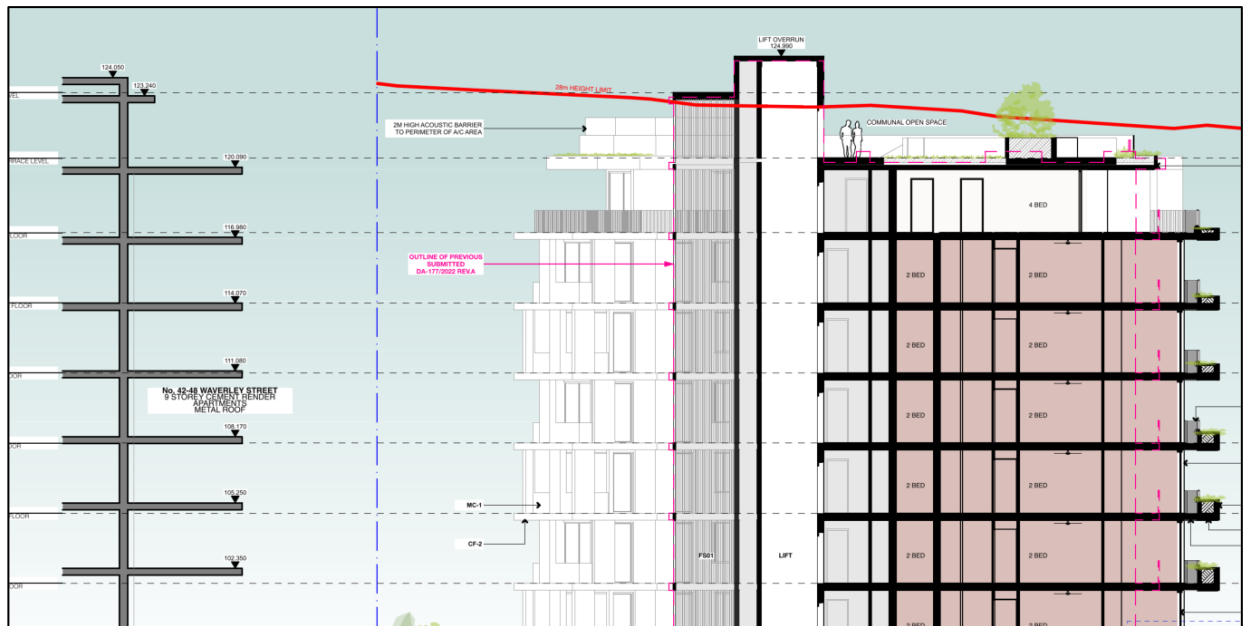


Figure 11: Extract of the plans showing that the sightlines from the balconies at the uppermost level of the building at 42-48 Waverley Crescent is lower than the height development standard applicable to the site

The view impacts caused by the variations to the development standard are considered acceptable, and therefore, preserve the environmental amenity of neighbouring properties and surrounding public spaces.

Visual impact

The applicant has prepared a montage of the development as shown in **Figure 12** below.



Figure 12: Montage showing the development in relation to surrounding properties

The variations to the height development standard are located centrally on the roof to the rear and on the front north-eastern corner. The plant that exceeds the height will not be viewed from the street and are part of common roof plant and overruns that are synonymous with tower development in the Bondi Junction area. Further, the overall development is architecturally designed and comprises sufficient perimeter landscaping on the roof levels of the building, which will assist to soften the appearance of the lift overruns and circulation cores.

The variation in the north-eastern corner is due to a slight dip in the landform along this part of the site. This results in only a minor non-compliance with the height development standard along the western elevation. To require strict compliance with the height development standard at this point of the site would result in a minor height reduction or increased setback to the building on the front north-western corner impacting upon the design of the building and the presentation to the street without any discernible reduction in impact upon the amenity of surrounding properties.

Therefore, the development, together with the variations to the development standard, are unlikely to result in adverse visual impacts that would not preserve the environmental amenity of neighbouring properties and public spaces.

Visual and acoustic privacy

The proposed development and site are separated by road reserves and sufficient distances from nearby residential properties as discussed in detail in Section 2.1.1 of this report. The nature, location and extent of the variations to the height of buildings development standard would therefore not manifest in any visual privacy impacts on neighbouring properties. Notwithstanding, the hours of use of the communal open space on the roof level will be restricted by condition of consent (also discussed later in this report) and the separation distances of the roof terrace increased to meet the minimum control of the ADG. The intent of these conditions is to ensure that the acoustic privacy of surrounding residences is preserved.

As will be discussed under objective (d) below, to require strict compliance with the development standard will not give rise to improved amenity for surrounding properties and will result in a building with a poor presentation to the street or loss of highly valued affordable housing.

The proposed development is considered to be consistent with objective (a) of the height development standard.

(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.*

As previously discussed, the height non-compliance to the building in the north-western corner is due to a slight dip in the landform along this part of the site. This results in only a minor non-compliance with the height development standard along the western elevation. To require strict compliance with the height development standard at this point of the site would result in a minor height reduction or

increased setback to the building on the front north-western corner impacting upon the design of the building and the presentation to the street without any discernible reduction in impact upon the amenity of surrounding properties.

An alternative scenario to enable compliance would be to step down the height of the building at this corner which would inevitably give rise to a reduction in floor space. The proposal provides a compliant FSR with the affordable housing bonus. Shadow diagrams have been provided which indicate that the variation to the development standard will not cause unreasonable additional overshadowing beyond a height compliant form. Given the high need for affordable housing within the local government area (LGA) and within the wider Sydney area, a reduction of affordable housing floor space to a part of the building that does not cause unreasonable amenity impacts upon surrounding properties to enable strict compliance with the development standard is considered unwarranted and of detriment to the ability to provide quality affordable housing within the LGA.

The other height non-compliance relates to the lift overrun and enclosure over the fire stairs. The plant is set back toward the rear of the building and will only be obscurely visible, if at all, within the streetscape. The area of non-compliance does not add unreasonably to the bulk and scale of the building given that it is set so far back from the front edge of the building.

The height non-compliance will not result in a building with increased bulk and scale beyond that envisioned by the controls and the resultant building will be consistent with the desired future character of the locality.

The objectives of the R4 *High Density Residential* zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maximise public transport patronage and encourage walking and cycling.*

The proposal is consistent with the relevant objectives of the R4 zoning in that it provides for the housing needs of the community with a variety of housing types within a high-density residential environment. The proposed development will provide 50% of the development as affordable housing. There is a significant need for affordable housing within the LGA and the subject development will provide a generous contribution to the affordable housing stock available. A condition will require that the affordable housing is retained for 15 years consistent with the requirements of the Housing SEPP.

The proposal provides no more parking than the maximum requirement of the DCP encouraging other forms of transportation including public transport. Additionally bicycle and motorcycle parking is provided within the basement car park to ensure alternative modes of transport.

Conclusion

For the reasons provided above the requested variation to the height development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by clause 4.6 of the Waverley LEP 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height development standard and the R4 zone.

2.1.3. Waverley Development Control Plan 2012 (Waverley DCP 2012) – Amendment No.9

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

Table 5: Waverley DCP 2012 – Part B General Provisions Compliance Table

Development Control	Compliance	Comment
1. Waste	Yes	<p>A Site Waste and Recycling Management Plan has been submitted with the application to address waste disposal during construction. Conditions are recommended regarding ongoing waste on site.</p> <p>The waste and recycling storage area is located in the basement in a location convenient for users of the site. The proposal provides a waste holding area adjacent to the basement driveway to allow garbage trucks to collect from within the site. This is consistent with the requirements of the DCP for onsite collection for a development of this scale.</p> <p>Each level is provided with a garbage chute for transportation of waste to the garbage room in the basement.</p>
2. Ecologically Sustainable Development	Yes	<p>Given the scale of the development, the proposal is considered to adequately consider the design of the building in relation to ecologically sustainable development and achieves the objectives of Part B2.</p>
3. Landscaping and Biodiversity	Yes	<p>The landscaping plan has been reviewed and is considered acceptable, maintaining as much existing vegetation as possible and is cohesive with the site and streetscape.</p>
5. Vegetation Preservation	Yes	<p>The proposal includes the removal of trees from the site and transplantation of a large Canary Island Date Palm within the front of the site to within the rear setback.</p> <p>The application was referred to Council's Tree Management Officer (TMO) and no issues were raised with the removal and transplantation of trees on the site subject to conditions. The TMO</p>

Development Control	Compliance	Comment
		<p>also recommends the planting of eight new street trees along the frontage of the site which will vastly improve the footpath area.</p> <p>Overall, 13 trees are to be removed from the site, including several weed trees. However, the landscape plan includes substantial replanting of tree species of varying heights, including dense planting along the rear boundary of the site. The landscape plan also includes substantial perimeter planting at the roof level surrounding the communal area.</p>
6. Stormwater	Yes (by condition)	<p>The stormwater plans submitted with the application are considered conceptual only and as such a condition has been recommended by Council's Stormwater Engineers which is included in Appendix A.</p> <p>Refer to the comments of Council's Stormwater Engineer in Part 3 of this report.</p>
<p>7. Accessibility and Adaptability</p> <ul style="list-style-type: none"> • 20% (ie, 8 apartments) of dwellings must be adaptable • 1 accessible car space per adaptable unit <p>All units must be liveable units</p>	Yes	<p>The proposal will provide eight adaptable apartments and eight accessible car spaces within the basement car park complying with the DCP requirements.</p> <p>The DCP requires that all units within new high density residential accommodation are liveable units. A condition to this effect is included in the Appendix A.</p> <p>The proposal provides an accessible entry and lift access to all levels of the building.</p>
<p>8. Transport</p> <p>Zone 1</p> <p>Minimum parking rate:</p> <ul style="list-style-type: none"> • 22 (Housing SEPP) • Nil (DCP) <p>Maximum parking rate:</p> <ul style="list-style-type: none"> • 16 <p>Visitor parking:</p> <ul style="list-style-type: none"> • 6 <p>Motorcycle parking:</p> <ul style="list-style-type: none"> • 13 <p>Bicycle parking:</p> <ul style="list-style-type: none"> • Resident: 41 • Visitor: 4 	Yes	<p>A traffic report was provided which concludes that traffic volumes from the development will result in an imperceptible impact on the surrounding road network and will not present any adverse capacity or road safety impacts.</p> <p>The proposal provides a two-way driveway from Waverley Crescent providing access to two levels of basement parking.</p> <p>The development is comprised of 41 apartments, of which 25 are affordable housing units under the Housing SEPP. As previously discussed, a minimum of 23 car spaces are required for the affordable housing units under the Housing SEPP (these requirements override the DCP as the SEPP is a higher order control). The remaining 16 apartments are comprised of the following:</p> <ul style="list-style-type: none"> • 7 x 2-bedroom apartments = 4.9 spaces

Development Control	Compliance	Comment
EV charging points: <ul style="list-style-type: none"> • 4 		<ul style="list-style-type: none"> • 9 x 3-bedroom apartments = 10.8 spaces. <p>Under the provisions of the DCP, the minimum residential parking requirement for these units is nil with a maximum of 16 spaces.</p> <p>As the Housing SEPP is a minimum requirement and the DCP is a maximum, the amount of resident parking required on site is a minimum of 23 and a maximum of 38. The DCP also requires six visitor spaces and accessible spaces to accommodate the number of adaptable apartments.</p> <p>The proposal provides 40 spaces within two levels of basement parking, including eight accessible spaces and two visitor spaces. The proposal is capable of complying with the DCP requirements for vehicular parking subject to conditions which accurately allocate six of the spaces as visitor spaces. It is noted that the visitor and resident spaces are not marked on the plans however a condition is included to ensure proper allocation of parking.</p> <p>The DCP requires 13 motorcycle spaces with which the proposal complies.</p> <p>The proposal provides 41 bicycle parking spaces within the basement car park and four visitor spaces at the ground floor level complying with the DCP.</p> <p>Four electric vehicle charging points and a dedicated E-bike (or mobility scooter) charging point have been provided in accordance with the DCP.</p> <p>The proposal is consistent with the objectives and controls within this part of the DCP.</p>
9. Heritage	Yes	Satisfactory – refer to Table 4.
10. Safety	Yes	The proposal is consistent with the objectives of this part of the DCP.
12. Design Excellence	Yes	Satisfactory, as discussed throughout this report.
14. Excavation	Yes	<p>The proposal includes significant excavation to provide two levels of basement parking below the building. The proposed excavation does not add to the scale of the building.</p> <p>The DCP requires that excavation is not to occur within a 1.5m setback from side boundaries and shall only occur within the building footprint except where access to a basement car park is</p>

Development Control	Compliance	Comment
		<p>required.</p> <p>The proposal provides a nil side boundary setback for the basement levels on the western side and varying setbacks from all other boundaries with the minimum being 1.85m. The basement levels have been designed to retain deep soil areas at the front and rear and provide sufficient parking, storage, manoeuvring and onsite collection of garbage etc without increasing the excavation to a third basement level. This necessitates a nil side boundary setback on one side however it is noted that this is where the vehicular access is located which is consistent with the DCP.</p> <p>The basement car park is located below ground except for the driveway entry which extends above to enable the collection of waste from within the site and to locate the driveway within Waverley Crescent. The roof over the driveway entry is commensurate in height with a similar approved structure at 21 Waverley Crescent which will adjoin the driveway and covered entry at the subject site.</p> <p>The proposal will retain deep soil along the rear boundary for dense landscaping along the rear of the site. Deep soil will also be retained along the Bondi Road frontage to provide landscaping.</p>
16. Public Domain	Yes	Satisfactory

Part C3 of the DCP applies to residential flat buildings. Development that is subject to SEPP 65 is required to address the provisions of the Apartment Design Guide (ADG), in addition to this Part of the DCP. As per Clause 6A of SEPP 65, if a DCP contains provisions that specify requirements, standards, or controls in relation to the following, those provisions are of no effect:

- (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.

As the development is subject to SEPP 65, those provisions that conflict with the assessment in relation to the ADG (Table 3) are not considered in the table below.

Table 6: Waverley DCP 2012 – Part C3 Other Residential Development Compliance Table

Development Control	Compliance	Comment
3.1 Site, scale and frontage		
<ul style="list-style-type: none"> Minimum frontage: 20m – R4 zone 	Yes	<p>The proposal includes the amalgamation of 7, 9, 11, 13 and 15 Bondi Road and will result in frontage to Bondi Road of 43.44m with a secondary frontage to Waverley Crescent of 11.13m.</p> <p>The redevelopment of the site will not result in isolated sites with the adjoining underdeveloped properties to the east, both containing small residential flat buildings, having a combined frontage of approximately 25m. The adjoining property to the west at 21 Waverley Crescent contains a recently constructed nine-storey residential flat building.</p>
3.2 Height		
<ul style="list-style-type: none"> Maximum external wall height: 25m 	No	<p>The wall height of the proposal exceeds 25m. Notwithstanding, the recently approved building at 21 Waverley Crescent and the existing residential flat building at 50 Waverley Street (east of the site) are nine-storey buildings with no set back upper level. The proposal is consistent with the wall heights and pattern of development of recent development within this part of Bondi Road.</p>
3.3 Setbacks		
<p>3.3.1 - Street setbacks</p> <ul style="list-style-type: none"> Consistent street setback 	Yes	<p>The proposal retains the predominant street alignment with no balconies protruding within the setback. The planters which extend from the balconies along the front elevation marginally encroach upon the front predominant front setback by 800mm increasing to 1.7m at the corner with Waverley Crescent. These planters soften the bulk and scale of the building and provide articulation and visual interest to the front façade and the minor encroachments will have negligible impact upon the streetscape appearance of the development.</p> <p>The proposal provides appropriate landscaping at the front of the site and the retention of deep soil along Bondi Road for tree planting and an improved street interface.</p> <p>The setbacks are consistent with recent development within this part of Bondi Road and are considered acceptable.</p>
3.3.2- Side and rear setbacks	Yes	<p>Separation distances and the corresponding required setbacks have been discussed in Table 3</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Minimum side setback: 1.5-2.5m Minimum rear setback: 6m or predominant rear building line, whichever is the greater setback Deep soil along one side boundary min 2m wide 	(on merit)	<p>relating to ADG requirements. It is noted that the proposal provides greater setbacks than the requirements of the DCP.</p> <p>The tower form of the proposal, and surrounding recent similar development, does not warrant setbacks at the upper levels.</p> <p>No landscaped 2m deep soil along one boundary has been provided (although the basement is set back 1.85m from the eastern boundary). These are provided at the front and the rear instead allowing greater planting in these areas to accommodate dense planting to contribute to privacy (rear) and streetscape presentation (front).</p>
3.4 Length and depth of buildings		
<ul style="list-style-type: none"> Maximum building length: 24m Façade to be articulated Maximum depth of 18m 	Yes (on merit)	<p>The amended proposal has increased the side setbacks to a minimum of 8.4m which consolidates the length of the tower along the street to 34m exceeding the DCP control. To compensate for the increased width of the building, the proposal incorporates a central recess effectively splitting the building into two at the street frontage with widths of 14m and 17m.</p> <p>The proposal exceeds the maximum depth for a residential flat building of 18m, at 34m. Notwithstanding, the proposal generally complies with the key built form controls of the ADG, LEP and DCP with marginal variations. The proposal achieves adequate setbacks and separation distances which leaves more than the maximum depth control of the DCP as effectively the "building envelope/footprint". The development is confined to the footprint set by the built form controls and as such the depth is considered acceptable.</p>
3.5 Building design and streetscape		
<ul style="list-style-type: none"> Respond to streetscape Sympathetic external finishes Corner sites to address both streets as primary frontages 	Yes	<p>The design of the building and materials and finishes have been extensively discussed elsewhere in this report. The design is considered appropriate, responding to the context of the site and the desired future character of the area.</p>
3.7 Fences and walls		
<p><i>Front fence:</i></p> <ul style="list-style-type: none"> Maximum height 1.2m Maximum 2/3 solid Maximum height of 1.8m and solid when secondary 	Yes	<p>The proposal provides a low solid planter along Bondi Road containing landscaping at the street frontage. Courtyard walls are then set back from the street frontage to contain the front courtyards of the ground floor units. This will provide a</p>

Development Control	Compliance	Comment
<p>wall set within property if required for traffic noise</p> <p><i>Side fence:</i></p> <ul style="list-style-type: none"> Maximum height: 1.8m <p><i>Rear fence:</i></p> <ul style="list-style-type: none"> Maximum height: 1.8m 		<p>landscaped planter along Bondi Road, contributing to the streetscape.</p> <p>The proposal essentially retains the existing ground level along the eastern side and rear boundary enabling the retention of existing boundary fencing. Excavation of the lower level is then set back from the perimeter allowing dense landscaping along these boundaries for privacy.</p> <p>There is no fill proposed along the eastern side boundary and as such, a standard 1800mm high fence along the boundary would not result in unreasonably high walls on the adjoining property. A condition requiring that the fencing along this boundary shall be 1800mm from the existing ground on the neighbouring side is included in Appendix A. The same condition is appropriate for the rear boundary also.</p> <p>On the western side, the proposed residential flat building that has been recently constructed has a high wall along the shared boundary that the subject development will be built up to. The treatment along this boundary is considered appropriate.</p> <p>The open driveway will ensure that sightlines are maintained as much as is possible given the proximity to Bondi Road.</p>
3.8 Pedestrian access and entry		
<ul style="list-style-type: none"> Entry at street level and respond to pattern within the street Accessible entry Separate to vehicular entry Legible, safe, well-lit 	Yes	<p>Entry is provided at the front of the building at street level and directly from Bondi Road. The entry is accessible, legible and separate to the vehicular entry from Waverley Crescent. As suggested by the DEAP, a security gate has been provided closer to Bondi Road to ensure no areas of concealment upon entry to the building. This improves the security of the site.</p>
3.9 Landscaping		
<ul style="list-style-type: none"> Comply with part B3-Landscaping and Biodiversity Minimum of 30% of site area landscaped 50% of the above is to be deep soil 	Yes	<p>The controls within the DCP relating to landscaped area and deep soil are overridden by the development standards of the Housing SEPP. Please refer to Table 1.</p> <p>The rear, side and front setbacks will be extensively landscaped. The deep soil zones are consolidated at the front and the rear to allow appropriate landscaping.</p> <p>The proposal includes planting of trees along the front and rear boundaries within the deep soil</p>

Development Control	Compliance	Comment
		zones. The rear planting will aid in privacy to the properties at the rear. The front landscaping will provide privacy for the apartments at ground level facing the street and will also contribute to the streetscape appearance of the development.
3.10 Communal open space		
<ul style="list-style-type: none"> • Min 25% communal (R4 zone) • Minimum dimensions: 6m x 6m • Minimum of 30% of communal area must receive three hours of sunlight • Accessible 	Yes	<p>The controls within the DCP relating to communal area are overridden by the development standards of the Housing SEPP.</p> <p>Notwithstanding, the proposal will provide a total of 420m² of communal open space (equivalent to 25% of the site area) comprised of the following:</p> <ul style="list-style-type: none"> • 70m² of communal open space at ground level; and • 350m² of rooftop communal open space. <p>The entirety of the rooftop communal space will receive sufficient solar access.</p> <p>The proposal provides an accessible communal open space area at the roof level with shared seating that receives sufficient solar access.</p> <p>Additionally, the rear, side and front setbacks will be extensively landscaped.</p> <p>The proposal provides sufficient areas of communal space and landscaping to satisfy the intent of the controls.</p>
3.12 Vehicular access and parking		
<ul style="list-style-type: none"> • Car parking to be integrated into the design of the development • Max 1 x 2 way vehicle access point • Provided from secondary street or lane • Pedestrian safety considered • Basement parking should not contravene deep soil zone controls 	Yes	<p>The car parking is integrated into the design of the building being located below ground. The driveway access will be landscaped above to improve the streetscape appearance of the proposed development.</p> <p>The proposal provides a single two-way entry from Waverley Crescent.</p> <p>There will be sufficient sightlines available from the driveway in Waverley Crescent.</p> <p>Deep soil zones are retained at the front and the rear of the site.</p>
3.13 Solar access and overshadowing		
<ul style="list-style-type: none"> • New development should maintain at least two hours of sunlight to solar collectors on adjoining properties in mid-winter. 	Yes	<p>The proposal complies with the FSR development standard (including bonus under the Housing SEPP) and the variation to the height development standard has been previously discussed in Section 2.1.2 of this report. That part of the building which does not comply with the height does not result in</p>

Development Control	Compliance	Comment
<ul style="list-style-type: none"> Direct sunlight to north facing windows of habitable rooms on all private open space areas of adjacent dwellings to less than three hours of sunlight on 21 June. 		<p>unacceptable additional overshadowing. The proposal complies with all other built form controls of the ADG and DCP with the exception of a minor variation to the separation distances.</p> <p>As discussed previously in this report, on merit, the separation distances are considered acceptable. It should also be noted that separation distances are reliant upon the layout of the building, ie, the distance is based on which rooms are opposite the boundary. In this regard, the actual separation distance is not fixed there is no certainty to the setbacks of a proposal and as such the overshadowing impacts will also vary.</p> <p>Additionally, the proposal is well in excess of the minimum setback controls stipulated in the DCP. In this regard, the development standards of height and FSR provide the certainty for surrounding properties and in this case, the proposal largely complies.</p> <p>For these reasons, it is considered that the overshadowing of adjoining 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. The adjoining properties are also zoned for high density development and, if they have not been developed already, it is anticipated that these properties will also redevelop in the future with increased setbacks and consideration of the surrounding high-density development. As such, the overshadowing impacts are not considered unreasonable.</p>
3.14 Views and view sharing		
<ul style="list-style-type: none"> Minimise view loss through design Landscaping on sites adjacent to a Council park or reserve should be sympathetic to soften the public/private interface. Views from public spaces to be maintained. 	<p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Refer to previous discussion in Section 2.1.2. 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 previous analysis, and the view sharing planning principle, it is considered that the impact of the development upon private significant views is not unreasonable.</p> <p>Landscaping has been included along the front boundary of the site which will soften the appearance of the development from Fingleton Reserve opposite the site.</p> <p>Significant views from the public domain will not</p>

Development Control	Compliance	Comment
		be impacted. Sufficient setbacks are provided to allow views through and around the development.
3.15 Visual privacy and security		
<ul style="list-style-type: none"> Dwellings to be orientated to the street with entrances and street numbering visible Development over 50 dwellings must be designed with CPTED principles – See B10 Safety Above ground open space must not overlook rooms and private landscaped areas of adjoining properties or be screened Privacy be considered in relation to context density, separation use and design. Prevent overlooking of more than 50% of private open space of lower level dwellings in same development Roof tops are to be non-trafficable, unless there is a predominance of roof terraces in the immediate vicinity of the site. 	Yes	<p>The majority of the apartments are orientated toward Bondi Road. The centralised main entry from Bondi Road is clearly indicated.</p> <p>Refer to detailed discussion in Section 2.1.1 in relation to separation distances of the ADG. The building provides sufficient separation from the rear boundary and the residential flat building beyond to ensure that privacy impacts from the rear balconies are not unreasonable. The same is true for those balconies at the front orientated toward Bondi Road as there is also sufficient separation distances from the properties opposite the site. The balconies at the front are angled toward the street to minimise incidental overlooking.</p> <p>The proposal includes a large balcony at Level 1 adjoining the substation and set back 2.35m from the eastern side boundary. This balcony is 40m² and will be located opposite windows at 17 Bondi Road. The apartment has another balcony on the Bondi Road frontage that is accessed from the main living area and as such, the additional balcony is considered unnecessary in terms of meeting the requirements of the ADG. This balcony will also overlook the terrace of the apartment on the level below as it will sit above this area. Given that this balcony will likely result in visual and acoustic privacy impacts upon the adjoining property, it is recommended that it be deleted. A condition to this effect is included in Appendix A.</p> <p>Overlooking within the development itself has been addressed through design.</p> <p>Refer to detailed discussion following this table regarding the roof terrace.</p>
3.19 Acoustic privacy		
<ul style="list-style-type: none"> Internal amenity by locating noisy areas away from quiet areas 	Yes	<p>Refer to Section 2.1.1 of this report for discussion regarding the acoustic report submitted with this application due to the development being located on Bondi Road.</p> <p>The layout of each floor is generally similar and as such similar and/or identical uses are located above and below each other on each level of the</p>

Development Control	Compliance	Comment
		building.
3.21 Building services		
<ul style="list-style-type: none"> Services are to be integrated into the design of buildings Outdoor Communal clothes drying area to be provided Plant rooms away from entry communal and private open spaces and bedrooms. Services on roof not to be seen from street or impact public or private views and be min 2m from the building edge 	Yes	<p>The services are integrated into the design of the building. The proposal provides a substation fronting Bondi Road which will be screened and landscaped. The Fire Hydrant booster is located on the Bondi Road frontage.</p> <p>A communal clothes drying area is located on the ground floor level in an accessible location.</p> <p>All services are integrated into the design of the development. Plant is located within the basement or on the roof, away from communal areas.</p> <p>The plant on the roof is set back from the building edges and will be only obscurely visible from the public domain.</p>

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

Roof terrace

Communal roof top terraces are a common feature of Bondi Junction with most recently constructed buildings, including the building adjoining to the west at 21 Waverley Crescent, providing communal areas at the roof due to the lack of solar access at the ground level. The subject site is appropriate for a communal roof terrace as it is located on a part of Bondi Road that experiences high traffic volumes and as such cannot provide communal areas with a northerly aspect without the visual and acoustic privacy impacts of the road in front. The rear and side setbacks are heavily overshadowed by existing surrounding buildings and by the proposed development itself.

The DCP requires that rooftop terraces not exceed 15m² with the subject development providing 351m². However, the ADG recommends that residential flat buildings provide a minimum of 25% of site as communal or public space with 50% direct sunlight to the principal usable part on the winter solstice. The only feasible area to provide quality communal space with adequate solar access that is removed from the road noise is at the roof level.

The roof top terrace is located toward the front of the building overlooking Bondi Road with landscaped planters around the perimeter to provide screening. The proposed roof terrace is located in a position on the roof which is away from surrounding properties, overlooking Bondi Road and contained toward Bondi Road where the background noise levels are high. It is also surrounded by planting and landscaping, and a considerable distance from surrounding properties to ensure that visual and acoustic privacy impacts will not unreasonably impact upon surrounding properties. As

previously discussed, a condition will require that the landscaping at this level is increased to ensure that the trafficable area of the roof terrace is at least 12m from the side boundaries.

A further protection to the visual and acoustic privacy of adjoining properties is recommended by including a condition which restricts the hours of use of the communal roof area. The condition has been consistently applied to roof terraces in Bondi Junction in recent years to alleviate any privacy impacts.

2.2. Other Impacts of the Development

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

2.3. Suitability of the Site for the Development

The site is considered suitable for the proposal.

2.4. Any Submissions

The application was notified for 21 days between 18 May and 8 June 2022 and a site notice erected on the site in accordance with the *Waverley Community Development Participation and Consultation Plan*.

Following receipt of the final amended plans and additional information, the application was re-notified for 14 days between 25 October and 8 November 2022 in accordance with the *Waverley Community Development Participation and Consultation Plan*.

A total of 22 unique submissions were received from the following properties:

Table 7: Number of and where submissions were received from.

Count	Property Address
1.	42-48 Waverley Street, Bondi Junction
2.	4 & 5/42-48 Waverley Street, Bondi Junction
3.	8 & 33/42-48 Waverley Street, Bondi Junction
4.	13/42-48 Waverley Street, Bondi Junction
5.	16/42-48 Waverley Street, Bondi Junction (2 submissions)
6.	20/42-48 Waverley Street, Bondi Junction
7.	23/42-48 Waverley Street, Bondi Junction
8.	25/42-48 Waverley Street, Bondi Junction
9.	28/42-48 Waverley Street, Bondi Junction (2 submissions)
10.	34/42-48 Waverley Street, Bondi Junction (2 submissions)
11.	41/42-48 Waverley Street, Bondi Junction (2 submissions)
12.	44/42-48 Waverley Street, Bondi Junction (2 submissions)
13.	2/17-19 Bondi Road, Bondi Junction
14.	3/17-19 Bondi Road, Bondi Junction
15.	17 Bondi Road, Bondi Junction
16.	42 Simpson Street, Bondi
17.	Strata, 42-48 Waverley Street, Bondi Junction

The following issues raised in the submissions have already been discussed and addressed in the body of this report and/or the Recommendation:

- Overshadowing and solar access
- Height and wall height
- FSR (bulk, scale, overdevelopment) and bonus under Housing SEPP
- Building depth and length
- Visual and acoustic privacy
- Setbacks and separation distances
- Traffic and parking
- Trees and vegetation
- Excavation
- Streetscape and context impacts, and desired future character
- Design excellence and articulation
- View impacts
- Insufficient clause 4.6 objection
- Roof terraces and the provision of communal open space on the roof
- Location of driveway is inappropriate

All other issues raised in the submissions are summarised and discussed below.

Issue: Loss of value to surrounding properties.

Response: This is not a planning matter.

Issue: Construction issues (traffic, parking, noise, dust etc).

Response: The consent authority cannot refuse the application based on inconveniences or impacts during construction. All standard conditions in relation to construction are included in Appendix A.

Issue: The adjoining property at 17-19 Bondi Road uses the driveway at No. 15 Bondi Road to access parking as Council has not installed a driveway crossing.

Response: Council does not construct driveway crossings for private properties as this is a matter for the property owners subject to consent. 17-19 Bondi Road has a driveway crossing and should be accessing and exiting their parking spaces from their own site. This is not a reason to refuse or amend the proposal.

Issue: Lack of infrastructure to support increased development.

Response: The objectors have noted that Bondi Junction has too much development which impacts on existing infrastructure. The Waverley LEP 2012 sets the strategic framework for the LGA and the site has been designated FSR and height development standards for high density development. The Bondi Junction Centre, and surrounding periphery, are identified for high density development located close to the Bondi Junction bus/rail interchange to achieve the housing targets set by the State Government.

The site is ideally located within walking distance of Bondi Junction centre, bus interchange and train station. This is not a matter which warrants refusal of this application.

Issue: Noise emissions from plant and number of apartments.

Response: The site is zoned for high density development and the noise levels generated by a development of that size are anticipated by the zoning. The proposal is not considered to result in any greater acoustic privacy impacts by virtue of the number of apartments, than that already generated by surrounding properties which also contain nine-storey development. Additionally, separation distances which relate to visual and acoustic privacy, are considered appropriate as previously discussed in this report. It should also be noted that the proposal achieves greater separation distances and setbacks than the majority of surrounding sites.

Issue: Impacts upon floor and fauna.

Response: The proposal provides extensive landscaping throughout the site, including on the roof terrace to accommodate flora and fauna.

Issue: Loss of district views.

Response: District views are not significant views under the NSW Land and Environment Court view sharing planning principle arising from the case of *Tenancy Consulting vs. Warringah [2004] LEC 140*.

Issue: No evidence has been provided as to the engagement of a registered housing provider including a contract and on this basis the Council cannot reach a level of satisfaction and thus the consent cannot be granted.

Response: The applicant has nominated a registered housing provider to manage the affordable housing component of the development.

Issue: Garbage collection will cause traffic queuing on Bondi Road; the on-site waste collection is not in accordance with the DCP requirements and will impede traffic flow.

Response: The proposal provides on-site waste collection consistent with the DCP and conditions of consent will reinforce this.

Issue: No loading or unloading space provided.

Response: The DCP requires loading spaces for residential flat buildings with over 50 apartments. As the proposal contains 41 apartments, no loading space is required.

Issue: Substation and hydrant has not been provided and should be integrated into the design.

Response: A substation and hydrant booster are shown on the plans as previously discussed.

Issue: Amended Clause 4.6 was not notified to surrounding properties.

Response: There is no requirement that a written objection to a development standard under clause 4.6 must be notified. Notwithstanding, the original and first amended written objections were available on Council's DA Tracker with the final amended clause 4.6 altering only the figures within.

Issue: Inadequate documentation.

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

2.5. Public Interest

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

3. REFERRALS

The following internal and external referral comments were sought:

3.1. Traffic and Development

Traffic and transport matters are considered acceptable subject to recommended conditions of consent which are included in Appendix A.

3.2. Stormwater

Stormwater matters are considered acceptable subject to recommended conditions of consent which are included in Appendix A.

3.3. Tree Management

Tree management is considered acceptable subject to recommended conditions of consent which are included in Appendix A.

3.4. Environmental Health

Conditions were provided which are included in Appendix A.

3.5. Land Information (street numbering)

A condition regarding street numbering is included in Appendix A.

3.6. Strategic Planning (Housing)

Conditions were provided which are included in Appendix A.

3.7. Strategic Planning (Urban Design)

Each proposed scheme was referred to Council's Urban Design Team and comments were incorporated into the final amended design. Urban Design are in support of the final amended proposal.

3.8. Waste and Recycling



Conditions were provided which are included in Appendix A.

3.9. Public Domain

Conditions were provided which are included in Appendix A.

4. 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) of the Environmental Planning and Assessment Act 1979 and it is recommended the Development Application be APPROVED by the Waverley Local Planning Panel subject to the conditions in Appendix A.

Report prepared by:	Application reviewed and agreed on behalf of the Development and Building Unit by:
	
Kylie Lucas	Bridget McNamara
Senior Development Assessment Planner	Manager, Development Assessment (Reviewed and agreed on behalf of the Development and Building Unit)
Date: 18/11/2022	Date: 9 December 2022

APPENDIX A – CONDITIONS OF CONSENT

A. APPROVED DEVELOPMENT

1. APPROVED PLANS AND DOCUMENTATION

The development must be in accordance with:

(a) Architectural Plans prepared by MHNDUNION of Project No: 20-027 including the following:

Plan Number and Revision	Plan description	Plan Date	Date received by Council
DA 1001 Issue C	SITE ANALYSIS PLAN	17/10/2022	20/10/2022
DA 1003 Issue C	SITE & ROOF PLAN, GREEN TRAVEL PLAN	17/10/2022	20/10/2022
DA 2000 Issue C	BASEMENT 02	17/10/2022	20/10/2022
DA 2001 Issue C	BASEMENT 01	17/10/2022	20/10/2022
DA 2002 Issue C	GROUND FLOOR	17/10/2022	20/10/2022
DA 2003 Issue C	LEVEL 1	17/10/2022	20/10/2022
DA 2004 Issue C	LEVEL 2 – 7 TYPICAL PLATE	17/10/2022	20/10/2022
DA 2005 Issue C	LEVEL 8 - PENTHOUSE	17/10/2022	20/10/2022
DA 2006 Issue C	ROOF TERRACE PLAN	17/10/2022	20/10/2022
DA 2007 Issue C	ROOF PLAN	17/10/2022	20/10/2022
DA 2400 Issue C	ELEVATION NORTH, STREETSCAPE ANALYSIS	17/10/2022	20/10/2022
DA 2401 Issue C	ELEVATION SOUTH	17/10/2022	20/10/2022
DA 2402 Issue C	ELEVATION EAST	17/10/2022	20/10/2022
DA 2403 Issue C	ELEVATION WEST	17/10/2022	20/10/2022
DA 2500 Issue C	SECTION A	17/10/2022	20/10/2022
DA 2501 Issue C	SECTION B	17/10/2022	20/10/2022
DA 2502 Issue C	SECTION CARPARK RAMP	17/10/2022	20/10/2022
DA 2503A Issue D	BOUNDARY CONDITIONS WEST	17/10/2022	20/10/2022
DA 2503B Issue B	BOUNDARY CONDITIONS EAST	17/10/2022	20/10/2022
DA 2504 Issue C	WALL SECTION	17/10/2022	20/10/2022
DA 6000 Issue C	EXTERNAL FINISHES AND MATERIALS	17/10/2022	20/10/2022
DA 7000 Issue C	AREA DIAGRAMS - STORAGE	17/10/2022	20/10/2022
DA 7004A Issue C	ADAPTABLE AND LIVEABLE UNIT PLAN	17/10/2022	20/10/2022
DA 7004B Issue C	ADAPTABLE AND LIVEABLE UNIT PLAN	17/10/2022	20/10/2022

(b) Landscape Plan No. DA 01, DA 02, DA 03, all revision D and documentation prepared by Sprout Studio, dated 14/10/2022 and received by Council on 21/10/2022.

(c) BASIX and NatHERs Certificates.

(d) Arboricultural Assessment Report (Ref: 1808_d_7-15 Bondi Road) Revision C prepared by Elke Landscape Architect dated 10/08/2020, and received by Council on 25/08/2020.

- (e) Acoustic Assessment (Project No. 12510246) prepared by GHD P/L, dated 25/08/2022 and received by Council on 31/08/2022.
- (f) Preliminary Geotechnical Investigation (Reference No. 31015PHrpt Rev1), prepared by JK Geotechnics, dated 25/02/2022 and received by Council on 04/05/2022.
- (g) Traffic and Parking Assessment (Ref: 21384) prepared by Transport and Traffic Planning Associates, dated April 2022 and received by Council on 04/05/2022.
- (h) Approved stormwater plans and documentation in accordance with condition 26 of this development consent.
- (i) Operational Waste Management Plan prepared by Elephants Foot Consulting, dated 05/04/2022 and received by Council on 04/05/2022.
- (j) The Site Waste and Recycling Management Plan (SWRMP) Part 1.

Except where amended by the following conditions of consent.

2. CONSULTANTS REPORTS

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

3. GENERAL MODIFICATIONS

The application is approved subject to the following plan amendments;

- (a) The fencing on the eastern side boundary behind the building line and the rear boundary shall be no higher than 1800mm, as measured from the ground level of adjoining property at the boundary line.
- (b) The trafficable area of the communal roof terrace is required to be set back at least 12m from both side boundaries to ensure the visual and acoustic privacy of adjoining properties. The landscaped planters at this level shall be increased to accommodate this requirement.
- (c) The balcony within the eastern side setback at Level 1 to the rear of the substation is to be deleted and no access to this area shall be provided from the apartments.
- (d) The circular planter at the ground floor building entry is to provide more substantial planting such as a cluster of small native palms.

The amendments are to be approved by the **Principal Certifying Authority** prior to the issue of any Construction Certificate.

4. MULTI UNIT HOUSING DEVELOPMENT DESIGN (SEPP 65 DEVELOPMENT)

The approved design (including any element or detail of that design) or materials, finish or colours of the building must not be changed without the written approval of Council.

5. AFFORDABLE HOUSING

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

A minimum of 50% of the floor space of the development shall be allocated for affordable housing for 15 years, commencing from the date of issue of an Occupation Certificate;

- (a) Units G01, G02, G03, G04, 103-703, 104-704, and 105-705 as nominated on the approved plans contained in condition 1 of this consent is to be used for the purposes of 'affordable housing', as defined in Clause 13 of the State Environmental Planning Policy (Housing) 2021,
- (b) All accommodation that is used for affordable housing must be managed by a registered community housing provider,

A restriction as to user must be registered against the title of the property in accordance with section 88E of the *Conveyancing Act 1919* which restricts the use of any accommodation to which this development consent relates.

6. FORCED MECHANICAL VENTILATION SYSTEM

The Acoustic Report states that *the building should be designed so that there is sufficient ventilation to comply with the requirements of the Building Code of Australia when windows are closed. This will require forced ventilation. This should be designed so any fresh air intake vents are not located on the façade facing Bondi Road.*

The forced ventilation system shall be designed to satisfy this requirement including that the vents are not located on the front façade of the building with details to be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate under the Environmental Planning and Assessment Act 1979.

B. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

GENERAL REQUIREMENTS

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

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

- (a) a Construction Certificate has been obtained from Council or an Accredited Certifier in accordance with the *Environmental Planning and Assessment Act 1979*;
- (b) a Principal Certifying Authority has been appointed and Council has been notified of the appointment in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*; and
- (c) Council is given at least two days' notice in writing of the intention to commence the building works.

CONTRIBUTIONS, FEES & BONDS

8. SECTION 7.12 CONTRIBUTION

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

- (a) A cost report indicating the itemised cost of the development shall be completed and submitted to Council:
 - (i) Where the total development cost is less than \$500,000:
"Waverley Council Cost Summary Report"; or,
 - (ii) Where the total development cost is \$500,000 or more:
"Waverley Council Registered Quantity Surveyor's Detailed Cost Report".

A copy of the required format for the cost reports are provided in the Waverley Council Contributions Plan 2006, available on Council's website.

- (b) As legislated in section 25K of the *Environmental Planning and Assessment Regulation 2000*, the levy must be paid in accordance with the following;

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

Prior to the issue of any Construction Certificate, evidence must be provided that the levy has been paid to Council in accordance with this condition or that the cost of works is less than \$100,000.

9. SECURITY DEPOSIT

A deposit (cash or cheque) for the amount of **\$405,170** must be provided to Council for any damage caused to any property of the consent authority (ie. public land) as a consequence of the works and completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent.

This deposit (cash or cheque) must be provided to Council prior to the issue of any Construction Certificate. The full amount of the deposit, minus Council's costs for any repair of damage to Council property or rectification of unauthorised works on Council property, will be refunded after satisfactory completion all of works associated with this consent (including the required public works) to the person who paid the deposit.

10. LONG SERVICE LEVY

A long service levy, as required under section 34 of the *Building and Construction Industry Long Service Payments Act, 1986*, is to be paid in respect of this building work. Evidence that the levy has been paid is to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

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

11. STREET TREES AND TREE BOND

On the naturestrip at Bondi Road, is one (1) *Callistemon viminalis* (weeping bottlebrush) and one (1) *Tristanopsis laurina* (Kanooka or Water Gum) the trees are in poor health. The applicant may remove these two street trees at their expense.

Prior to the issue of any Occupation Certificate, Eight (8) replacement trees are to be planted on the naturestrip on Bondi Road. These trees are to be evenly spaced along Bondi Road. The trees are to be a *Tristanopsis laurina* (Kanooka or Water Gum) and must be a minimum pot size of 100 litres when planted.

The trees are to be planted by a horticulturist (Min qualification AQF Level 3)

A bond of **\$8,000** is to be lodged with Council either as cash or by way of an unconditional bank guarantee to ensure the protection of the newly planted eight (8) *Tristaniopsis laurina* (Kanooka or Water Gum) and trees on the naturestrip along Bondi Road. The bond is to be lodged prior to the issue of any Occupation Certificate.

The sum will be forfeited to the Council at its discretion for a breach of these requirements and will be refunded twelve (12) months from the issue of the Occupation Certificate subject to the satisfaction of Council.

PLAN DETAILS

12. VERIFICATION OF CONSTRUCTION CERTIFICATE DOCUMENTATION (SEPP 65 BUILDINGS)

The preparation of the construction certificate plans shall be supervised and be to the satisfaction of an architect who is registered in accordance with the *Architects Act 2003* (i.e. a qualified designer) in accordance with the requirements of the *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

In accordance with the Environmental Planning and Assessment Regulation 2000, the Principal Certifying Authority must not issue a construction certificate unless it has received a design verification statement from a qualified designer which verifies that the construction certificate plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles set out in *State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development*.

13. ADAPTABLE HOUSING

A minimum of 20% of the apartments in the development are to be provided as 'adaptable housing' within the development, with at least 1 car space allocated to each of these apartments. Adaptable apartments must be certified as 'adaptable housing units' by an independent suitably qualified person, confirming compliance with the relevant Australian Standards.

14. UNIVERSAL HOUSING

Apartments in the development are to be provided with universal design features (as outlined in the *Liveable Housing Design Guidelines*) to meet the changing need of occupants over their lifetimes in accordance with Part B7 of the *Waverley Development Control Plan 2012*.

15. GREEN TRAVEL PLAN

A Green Travel Plan must be provided for this DA and must include

- (i) Targets – this typically includes the reduction of a single occupant car trips to the site for the journey to work and the reduction of business travel.
- (ii) Travel data – an initial estimate of the number of trips to the site by mode is required.
- (iii) Measures – a list of specific tools or actions to support and achieve the targets.

The Green Travel Plan should also include a definition of the means, by which the maintenance and implementation of the Green Travel Plan is to be enforced.

A safe path of travel from bike parking areas to entry/exit points is to be marked.

Bicycle parking for visitors is to be provided in an accessible on-grade location near a major public entrance to the development and is to be signposted.

CONSTRUCTION & SITE MATTERS

16. HOARDING

To ensure the site is contained during construction, a hoarding is required for the approved works, which is to be designed and constructed in accordance with the requirements of Safe Work NSW. Where the hoarding is to be erected over the footpath or any public place, the approval of Council's Compliance Unit must be obtained and the applicable fees paid, prior to the erection of the hoarding.

17. EROSION & SEDIMENT CONTROL

A Soil and Water Management Plan (SWMP), also known as an Erosion and Sediment Control Plan must be prepared in accordance with Waverley Council's Water Management Technical Manual.

The SWMP must be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. A copy of the SWMP must be kept on site at all times and made available to Council officers upon request. The recommendations of the SWMP must be implemented and maintained during all construction activities and until the site is fully stabilised following construction.

18. DETAILS OF EXCAVATION, SHORING OR PILE CONSTRUCTION

A report shall be prepared by a suitably qualified and practising Structural Engineer/Geotechnical Engineer detailing the proposed methods of bulk excavation, shoring or pile construction, including details of vibration emissions and any possible damage which may occur to adjoining or nearby properties as a result of the proposed building and excavation works.

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

19. ENGINEERING DETAILS

Structural details are to be prepared and certified by a practicing Structural Engineer in connection with all structural components of the approved works, prior to the issue of the relevant Construction Certificate.

20. GEOTECHNICAL ENGINEERS REPORT

The Geotechnical Engineers Report shall be updated, regarding the stability of the subject site and stating that damage should not occur to any adjoining premises as a result of the proposed bulk excavation, driven type piles and shoring works, is to be submitted to the Principal Certifying Authority, Council and the owners of adjoining premises. The report is to be submitted prior to the issue of a Construction Certificate and commencement of any such works on the site.

21. GROUND ANCHORS

Where any ground anchors (i.e. rock or sand anchors) are proposed to extend beyond the property boundary beneath roadways and other Council property, details must be submitted to and approved by Council's Executive Manager, Infrastructure Services (or delegate) and will be subject to fees. For further information regarding this, please contact assets@waverley.nsw.gov.au on 9083 8886.

Separate approval will be required for ground anchors beneath roadways governed by the Roads and Maritime Services.

22. ESSENTIAL SERVICES - NEW BUILDING

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

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

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

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

23. TELECOMMUNICATIONS IN NEW RESIDENTIAL FLAT BUILDING

Evidence is to be provided to the Principal Certifying Authority that arrangements have been made for:

- (a) The installation of fibre-ready facilities to all individual lots and/or premises to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (b) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises demonstrated through an agreement with a carrier.

24. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE APPLICATION

An application to obtain a Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be made prior to the issue of the relevant Construction Certificate. The application must be made through an authorised Water Servicing Coordinator.

For more information about making an application to obtain a Section 73 Compliance Certificate, please consult Sydney Water's website.

Following this application, a "Notice of Requirements" will be provided by Sydney Water that outlines any requirements of works to be completed prior to the issue of the Section 73 Compliance Certificate. Please make early contact **with the Coordinator**, as building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

TRAFFIC MANAGEMENT

25. CONSTRUCTION TRAFFIC MANAGEMENT PLAN (CTMP)

The applicant is to submit a Construction Traffic Management Plan (CTMP) for the approval of Council's Executive Manager, Infrastructure Services, or delegate prior to the issue of any Construction Certificate. For further information on what is required in the CTMP, please refer to Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent

STORMWATER & FLOODING

26. STORMWATER AND PUBLIC INFRASTRUCTURE MANAGEMENT

To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The submitted stormwater management plan prepared by NB Consulting Engineers Pty Ltd, Project No. 220293, Drawing No. D01, D02, D03, D04, D05, D06, D07, D08 and D09, Revision A, dated 29/03/2022, is considered conceptual only.

The applicant must submit amended plans and specifications to comply with the current Waverley Council Water Management Technical Manual and Development Control Plan (DCP) at the time of engineering plan approval. The submitted plans shall be prepared by a suitably qualified and practising Civil Engineer and:

- (a) The plans shall provide a complete details of the On-Site Stormwater Detention (OSD) system e.g. pit dimensions, cross & long sections, significant water invert levels of inlet and outlet pipes, details of Discharge Control Pit, orifice plate details including orifice diameter, depth of water above centreline of orifice etc., pit overflow, OSD plaque, OSD warning sign and catchment plan. Council's mandatory OSD checklist as set out in Council's Water Management Technical Manual shall be completed and submitted.
- (b) Details of any rainwater tank required by BASIX commitments or as nominated on the architectural plan, including the overflow connection to the approved stormwater drainage system are to be submitted.
- (c) A certificate from a registered structural engineer certifying the structural adequacy of the OSD tank structure is to be provided. Any below ground OSD tank structure shall be a cast in-situ concrete based.
- (d) A minimum of two 600 mm square access grates shall be installed over the OSD tank. This is to provide adequate ventilation to prevent the accumulation of noxious odours and to provide convenient access for routine maintenance and inspection of the tank. One grate shall be placed over OSD outlet pipe and orifice plate.
- (e) The internal drainage system shall be designed to cater for all storms up to and including the 1% Annual Exceedance Probability (AEP) event.

- (f) Since the calculated site discharge is more than 25L/s, the site stormwater shall be connected directly to Council's trunk drainage system.
- (g) Seepage water must not be directly or indirectly discharged to Council's street gutter.
- (h) Any underground basement shall be protected from possible inundation by surface waters from the street.
- (i) Pipe sizes, type, grade, length, invert levels, dimensions and types of drainage pits and inspection openings and their location shall be provided. Calculations demonstrating that the proposed stormwater drainage system can cater for the relevant design storm event shall be provided.
- (j) A sediment control stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
- (k) A long section of the connection to Council's infrastructure shall be provided and its details must be included (e.g. the location of existing services crossing and the clearances, existing surface levels, obvert and invert of existing pipe and invert level of the outlet pipe).
- (l) Show an alarm system comprising of basement pump-out failure warning sign together with a flashing strobe light and siren installed at a clearly visible location at the entrance to the basement in case of pump failure. A minimum freeboard of 150 mm from the pump out system to all parking spaces and full hydraulic details and pump manufacturers specification are to be provided.
- (m) A grated trench drain shall be provided across the basement entrance within private property. Unless otherwise sized by a suitably qualified and practising Engineer, the dimensions of the trench grate shall be no less than 300 mm wide by 150 mm deep at the shallow end and have a "bottom" slope of 2%. This trench drain shall be connected to an approved drainage system.
- (n) Council must be notified when the connection has been made to the kerb inlet pit and an inspection must be made by a Council officer prior to public domain restoration and backfill at the point of connection. An inspection fee will apply for each inspection visit required by a Council officer, payable prior to any site inspection. Minimum 48 hour's notice must be provided to Council prior to inspection.
- (o) Any affected Council's infrastructure as the result of construction activities within the public domain area, inclusive of stormwater, stormwater outlet/s, kerb and gutter, pavement, grass verges and vehicle crossovers within the extent works shall be replaced as per Waverley Council Public Domain Technical Manual. All associated costs shall be borne by the applicant.

Notes:

- Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the Engineering design submissions however, Council's title block shall not be replicated.
- Prior to commencement of works a security deposit will be made payable to Council to ensure any additional damage or unauthorised works within the Council property, not conditioned above. Council will reserve the right to withhold the cost of restoring the damaged assets from the security deposit should the applicant fail to restore the defects to the satisfaction of Council.
- Council's contact for infrastructure assessment: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4pm Monday to Friday). The expected duration to review and approve the stormwater management plan may take at least 15 working days from the date of submission.

27. STORMWATER: ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering plans and inspection of the completed works in the public domain inclusive of all stormwater assessment, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the applicant for the amount payable, which will be calculated based on the design plans for the subject development

PUBLIC DOMAIN

28. PUBLIC DOMAIN IMPROVEMENTS

The public domain is to be upgraded on both Bondi Road and Waverley Crescent frontages for the development site in accordance with the current Waverley Council Development Control Plan (DCP) and Public Domain Technical Manual (PDTM) at the time of engineering plan approval. A public domain plan for the following works shall be submitted to Council, and approved by the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

- Pedestrian footpath
- Vehicular Crossing
- Road pavement
- Kerb and gutter
- Stormwater infrastructure located within the Council kerb and/or footpath
- Street lighting and associated electrical overhead undergrounding
- Street tree planting and landscaping

29. PUBLIC INFRASTRUCTURE WORKS

Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Full design engineering drawings to be prepared by a suitably qualified and experienced engineering professional and be submitted to Council for the approval of the Executive Manager, Infrastructure Services (or delegate) prior to the issue of the relevant Construction Certificate.

The Applicant must submit plans and specifications for the following infrastructure works to Council's Public Infrastructure Engineer:

- (a) Road Pavement: The full renewal and reconstruction of asphalt pavement for half road width in Waverley Crescent. Details of the road pavement treatments and sub-grade details to be advised by Council.
- (b) Footpath, Kerb and Gutter: Replace all footpath, kerb and gutter traversing both Bondi Road and Waverley Crescent frontages. Any stormwater kerb lintel infrastructure within the extent of kerb and gutter works shall be replaced. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along the street frontage.
- (c) Street Trees: Minimum of eight (8) street trees shall be planted along Bondi Road frontage, and returfing Council existing verge along the full frontage of the development site. All new trees are to be a ***Tristaniopsis laurina*** (Kanooka or Water Gum) and must be a minimum pot size of 400 litres and shall be certified as grown to Natspec specifications with a minimum height of 2500mm from the top of the container to the apical tip. The chosen tree shall not interfere with the local pedestrian and/or traffic activities.
- (d) Streetlights: Make provision for new streetlights serviced by metered underground power. The consultant shall liaise with Council in obtaining Councils requirements and specifications.
- (e) Any existing or proposed utility pillars on the site frontages to be either underground or inside the property boundary of the proposed development. Applicant must liaise with the relevant authorities for their approval and communicate to Council with written confirmation, before executing any works.
- (f) All mains electrical connections to the development must be routed underground. Council will not accept the erection of newly placed electricity columns within the Councils Public Domain to support the new development.
- (g) Transport for NSW (TfNSW) Plan Approval: The design and construction of stormwater infrastructure, kerb and gutter within Bondi Road shall be approved by TfNSW under Section 138 of the Road Act and to the satisfaction of Waverley Council. Details of the necessary TfNSW

requirements should be obtained. Approved correspondence to be submitted to Council prior to the issue of a construction certificate and commencement of any Public Domain works within Bondi Road.

*Note Council will provide final approval once TfNSW approval is granted.

Notes

Waverley Council standard drawings for public domain infrastructure assets are available upon request. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.

Council reserve the right to ask for any additional work required on areas damaged by the construction of the building.

Council's contact for public domain: E-mail: assets@waverley.nsw.gov.au or Phone: 9083 8886 (operational hours between 9.30am to 4.00pm Monday to Friday).

30. ENGINEERING PLANS ASSESSMENT AND WORKS INSPECTION FEES

The applicant is to pay to Council fees for assessment of all engineering and public domain plans and inspection of the completed works in the public domain, in accordance with Council's Schedule of Fees & Charges at the time of engineering plan approval, prior to such approval being granted by Council.

An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

ENERGY EFFICIENCY & SUSTAINABILITY

31. BASIX

All requirements of the BASIX Certificate and NatHERS documentation are to be shown on the Construction Certificate plans and documentation.

The rainwater tank location, size and tank(s) are to be drawn to scale. If an underground tank is proposed, then this must be clearly stated. Plans should show and state the roof area draining to rain tank(s) and match the BASIX certificate.

WASTE

32. SITE WASTE AND RECYCLING MANAGEMENT PLAN

A *Site Waste and Recycling Management Plan (SWRMP) - Part 2* is to be submitted to the Principal Certifying Authority prior to the issue of the relevant Construction Certificate, which outlines materials

to be reused and/or recycled as a result of demolition and construction works. At least one copy of the *SWRMP Part 2* is to be available on site at all times during construction. Copies of demolition and construction waste dockets that verify the facility that received the material for recycling or disposal and the quantity of waste received, must be retained on site at all times during construction.

33. WASTE STORAGE AREAS

The development must have a bin storage area with sufficient space to accommodate the following minimum number of bins for the residential components of the development;

- **Residential** (41 units – 7 x 1-bedroom units, 23 x 2-bedroom units and 11 x 3+ bedroom units):
 - 4 x 660L Mobile Garbage Bins (MGBs) for general waste compacted 2:1 collected weekly
 - 7 x 660L MGBs for container recycling collected fortnightly
 - 7 x 660L MGBs for paper recycling collected fortnightly
 - 2 x 240L MGB for garden organic waste should this be generated at the development.
- A minimum of 10m² for on-site storage of bulky waste awaiting collection.
- A minimum of 2m² for on-site storage of problem waste (e.g. electronic waste and textiles) awaiting collection. This area should be inside or adjacent to the onsite storage of bulky waste.
- All waste and recycling storage rooms must be built to meet all appropriate design requirements set in Part B1 of the *Waverley Council Development Control Plan 2012* to the satisfaction of the Principal Certifying Authority.

NOISE & HEALTH

34. NOISE MANAGEMENT PLAN - DEMOLITION, EXCAVATION AND CONSTRUCTION

A site specific Noise Management Plan, prepared by a suitably qualified acoustic consultant (as defined in the advisory section of this consent) must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate) for demolition, excavation and construction works.

For further information on the requirements, refer to Council's website:

https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent

35. VERMIN AND RAT CONTROL

A *Pest and Vermin Control Management Plan* prepared by a suitable qualified person outlining measures to be taken to reduce rat/vermin populations is to be submitted for the approval of Council's Manager, Health and Compliance (or delegate) prior to the issue of a Construction Certificate for the demolition of existing buildings.

TREE PROTECTION AND REMOVAL

36. TREE TRANSPLANT METHOD STATEMENT

The Phoenix *canariensis* (Canary Island Date Palm) tree situated in the front of the property is to be retained and protected.

The landscaping plans indicate that this tree will be transplanted to within the deep soil zone along the rear boundary of the site. In this regard, a detailed tree transplant method statement must be submitted to the Principal Certifying Authority for approval prior to the issue of a Construction Certificate outlining the methods of transplantation.

The statement must include:

- (a) site plans;
- (b) timetable of works;
- (c) details of site preparation including minimising damage to adjacent vegetation;
- (d) transplantation method e.g. machinery to be used; excavation techniques; rootball and crown treatments and stabilisation measures;
- (e) storage: on or off site; details of monitoring and tree care;
- (f) program of monitoring: during transplant process; after care and maintenance stages.

The statement must be prepared by an arborist with a minimum qualification of AQF 5 level.

37. PLANTING ON STRUCTURES LANDSCAPING DETAILS

The construction certificate landscape plans are to comply with the controls for landscaping on structures in Part B3.1 of the *Waverley Development Control Plan 2012* including;

- (a) Comprise plants that are suitable for the site in relation to the environmental conditions (sun, wind and views) and include indigenous or local native plants to Waverley (see Annexure B2 – 1 of the DCP).
- (b) Have a minimum soil depth of 300mm and use lightweight soil mixes that are porous, able to drain freely, and suitable for the selected plant species.
- (c) Demonstrate that adequate drainage and waterproofing is provided for the species and volumes of plants and soil.
- (d) Provide appropriate methods for capturing, storing and treating run off from landscapes on structures for reuse on the site.
- (e) The landscaped planters are to be designed to be a non-trafficable area (with no balustrades) and must be irrigated without requiring frequent maintenance access. Any access to the roof is to be for servicing purposes only.

A qualified landscape architect must review the design and verify that it complies with the above requirements prior to the issue of a Construction Certificate.

C. COMPLIANCE PRIOR TO WORK COMMENCING AND DURING CONSTRUCTION

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required.

PRIOR TO ANY WORKS

38. CONSTRUCTION SIGNS

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

39. DILAPIDATION REPORT

A Dilapidation report is to be prepared for any adjoining or nearby property that may be subject to potential damage as a result of any works being undertaken. The dilapidation report is to be made available to affected property owners.

The report is to be dated, submitted to, and accepted by the Principal Certifying Authority, prior to any work commencing on the site.

Note: Any damage that may be caused is a civil matter. This consent does not allow or authorise any party to cause damage, trespass, or any other unlawful act and Council will not be held responsible for any damage that may be caused to adjoining buildings as a consequence of the development being carried out. Council will not become directly involved in disputes between the builder, owner, developer, its contractors and the owners of neighbouring buildings.

40. USE OF FILL ON SITE

All fill imported on to the site shall be free of building and other demolition waste, and contain virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 of the Protection of the Environment Operations Act, 1997 and

Sampling and analysis of the fill material should be conducted in accordance with the NSW EPA Sampling Design Guidelines (1995) to ensure that the material is not contaminated.

Any other waste derived material the subject of a resource recovery exemption under cl. 51A of the *Protection of the Environmental Operations (Waste) Regulations 2014* that is permitted to be used as fill material.

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

DEMOLITION & EXCAVATION

41. DEMOLITION – ASBESTOS AND HAZARDOUS MATERIALS

The demolition, removal, storage, handling and disposal of products and materials containing asbestos must be carried out in accordance with the relevant requirements of SafeWork NSW and the NSW Environment Protection Authority (EPA), including:

- Work Health and Safety Act 2011;
- Work Health and Safety Regulation 2017;
- SafeWork NSW Code of Practice for the Safe Removal of Asbestos;
- Australian Standard 2601 (2001) – Demolition of Structures;
- *Protection of the Environment Operations Act 1997*.

At least 5 days prior to the demolition, renovation work or alterations and additions to any building, the person acting on the consent shall submit a Work Plan to the Principal Certifying Authority in accordance with Australian Standard AS 2601-2001, Demolition of Structure and a Hazardous Materials Assessment prepared by a person with suitable expertise and experience. The Work Plan and Hazardous Materials Assessment shall:

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

42. CONTROL OF DUST ON CONSTRUCTION SITES

The following requirements apply to demolition and construction works on site:

- (a) Hazardous dust is not to be allowed to escape from the site. The use of fine mesh dust proof screens or other measures are recommended. Any existing accumulations of dust (e.g. ceiling voids and wall cavities) must be removed by the use of an industrial vacuum fitted with a high efficiency particle air (HEPA) filter. All dusty surfaces and dust created from work are to be suppressed by a fine water spray. Water must not be allowed to enter the street and stormwater systems. Demolition is not to be performed during adverse winds, which may cause dust to spread beyond the site boundaries.

- (b) All contractors and employees directly involved in the removal of hazardous dusts and substances are to wear protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices.

43. CLASSIFICATION OF WASTE/ DISPOSAL OF EXCAVATED SOILS

Prior to the exportation of waste (including fill or soil) from the site the material must be classified in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and the NSW EPA Waste Classification Guidelines 2014.

44. EXCAVATION AND BACKFILLING

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

If an excavation associated with the erection or demolition of a building extends below the level of the footings of a building on an adjoining allotment of land, the excavation is to be managed by a practising structural engineer.

CONSTRUCTION MATTERS

45. CONSTRUCTION HOURS

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

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

Noise from construction activities shall comply with the Protection of the Environmental Operations (Noise Control) Regulation 2017.

46. STOCKPILES, STORAGE OF MATERIALS AND LOCATION OF BUILDING OPERATIONS

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

47. CONSTRUCTION INSPECTIONS

The building works are to be inspected during construction by the Principal Certifying Authority (PCA) in accordance with the *Building Legislation Amendment (Quality of Construction) Act 2002*, clause 162A of the *Environmental Planning and Assessment Regulation 2000* and the requirements of any other applicable legislation or instruments.

48. CERTIFICATE OF SURVEY - LEVELS

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

49. CERTIFICATE OF SURVEY - BOUNDARIES AND LOCATION OF BUILDING

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

50. TREATMENT OF BOUNDARY WALLS

Any wall/s approved on the boundary with the neighbouring property are to be finished to the same standard as the remaining building and not left unfinished to ensure a consistent visual appearance.

51. WORK OUTSIDE PROPERTY BOUNDARY

This consent does not authorise any work outside the property boundary.

TREE PROTECTION

52. TREE PROTECTION

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

- (a) Do not store harmful or bulk materials or spoil under or near trees;
- (b) Prevent damage to bark and root system;
- (c) Do not use mechanical methods to excavate within root zones;
- (d) Do not add or remove topsoil from under the drip line;
- (e) Do not compact ground under the drip line;
- (f) Do not mix or dispose of liquids within the drip line of the tree; and

(g) All trees marked for retention must have a protective fence/guard placed around a nominated perimeter.

Trunk protection as per AS 4970 – 2009, Section 4.5.3 is to be installed.

Padding to be used shall be non-absorbing or free draining to prevent moisture build up around the part being protected.

The trunk protection shall consist of a layer of carpet underfelt (or similar) wrapped around the trunk, followed by 1.8 metre lengths of softwood timbers (90 x 45mm in section) aligned vertically and spaced evenly around the trunk at 150mm centres (i.e. with a 50mm gap) and secured together with 2mm galvanised wire or galvanised hoop strap. The timbers shall be wrapped around the trunk (over the carpet underfelt), but not fixed to the tree to avoid mechanical injury or damage to the trunk. Trunk protection must be installed prior to any site works including demolition and maintained in good condition for the duration of the construction period.

- TPZ – A 1.8m chain link wire fence or the like shall be erected around the above trees to be retained to protect them from damage during construction. Fencing is not to be removed until all building work has been completed. Fencing to be installed to the dimensions outlined in the table above.
- If any tree roots are exposed during any approved works then roots smaller than 30mm are to be pruned as per the specifications below. Any roots greater than 30mm are to be assessed by a qualified arborist before any pruning is undertaken.
- If tree roots are required to be removed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).
- It is the arborist's responsibility to determine if such root pruning is suitable. If there are any concerns regarding this process, then Waverley Council's Tree Management Officer is to be contacted to make final determination.
- If any trees on neighboring properties require pruning, then permission must be gained from the owner of the tree(s) and an Application to Prune or Remove Trees on Private Property is then to be presented to Council for processing.
- If any trees on Council owned land require pruning, the applicant is to supply a tree pruning report from an Arborist with AQF level 5 qualification or above with photos showing the branches that need to be removed.
- If approval is granted the applicant may prune the tree at their expense, by an experienced Arborist/Horticulturist (with a minimum of the Horticulture Certificate or Tree Surgery Certificate).

Trees on site shall be removed or retained as detailed in the table below:

Tree No.	Species	Location	Action
T 1	<i>Callistemon viminalis</i> (weeping bottlebrush)	Street tree	Removal is supported.
T 2	<i>Tristaniaopsis laurina</i> (Kanooka or Water Gum)	Street tree	Removal is supported.
T 3	<i>Cupressus torulosa</i> (cypress)	On site	Remove as per arborist report
T 4	<i>Phoenix canariensis</i> (Canary Island Date Palm)	On site	Transplanted
T 5	<i>Camellia sasanqua</i> (camellia)	On site	Remove as per arborist report
T 6	<i>Cupressus torulosa</i> (cypress)	On site	Remove as per arborist report
T 7	<i>Howea forsteriana</i> (Kentia Palm)	On site	Remove as per arborist report
T 8	<i>Ligustrum lucidum</i> (Broad leaved Privet)	On site	Remove as per arborist report
T 9	<i>Magnolia soulangiana</i> (saucer magnolia)	On site	Remove as per arborist report
T 10	<i>Michelia figo</i> (port wine magnolia)	On site	Remove as per arborist report
T 11a	<i>Ligustrum lucidum</i> (Broad leaved Privet)	On site	Remove as per arborist report (weed)
T 11b	<i>Ligustrum lucidum</i> (Broad leaved Privet)		Remove as per arborist report (weed)
T 12	<i>Ochna serrulate</i> (mickey mouse plant)	On site	Remove as per arborist report (weed)
T 13	<i>Robinia pseudoacacia</i> (black locust)	On site	Remove as per arborist report
T 14	<i>Syzygium paniculatum</i> (lilly pilly)	On site	Remove as per arborist report
T 15	<i>Laurus nobilis</i> (Bay Tree)	On site	Retain & protect
T 16	<i>Mangifera indica</i> (mango)	On site	Retain & protect
T 17	<i>Cinnamomum camphora</i> (camphor laurel)	On site	Remove as per arborist report

VEHICLE ACCESS

53. VEHICULAR ACCESS - FINISHED LEVEL TO FOOTPATH

The finished level at the property boundary on both sides of each vehicle crossing is to match the existing concrete footpath.

54. CAR PARKING

A maximum of 40 car parking spaces are to be provided within the development, allocated in the following manner:

- i) 23 parking spaces allocated to residents of the affordable housing units
- ii) 11 parking spaces allocated to residents of the remaining housing units
- iii) 6 standard visitor spaces

Car parking spaces are to be allocated with the rates specified in the DCP, with no more than 2 spaces allocated to any residential unit/dwelling. All car spaces are to be appropriately marked.

55. BICYCLE PARKING

A **minimum** of 44 bicycle parking spaces are to be provided within the development.

The bicycle spaces are to be designed in accordance with Australian Standard AS2890.3 - 2015 Parking Facilities - Bicycle Parking.

The bicycle spaces are to be provided by way of a secure lockable area, individual lockers or suitable bicycle racks and are to be located within the ground floor foyer or adjacent within any forecourt or within the basement car parking area. Signage and line-marking (way finding) is to be provided to guide visitors to the allocated bicycle parking spaces to ensure a safe path of travel to the bicycle spaces (separate to cars). Details of this are to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate.

56. VEHICLE PRIORITY/TRAFFIC LIGHT SYSTEM

A vehicle priority system shall be provided. Details are to be shown in documentation and on plans to be submitted to Council for the approval of the Executive Manager, Infrastructure Services, or delegate prior to the issue of an Occupation Certificate.

57. ELECTRIC VEHICLE CHARGING POINTS

Four (4) 'Level 2' AC fast electric vehicle charging points are to be installed prior to the issue of an Occupation Certificate.

58. HEADROOM CLEARANCE

The headroom clearance on the driveway and within the carpark for access to car parking spaces is to be a minimum of 2.2 metres in general and 2.5 metres above the disabled parking spaces and associated shared zones.

PUBLIC DOMAIN WORKS

59. PRE-CONSTRUCTION DILAPIDATION REPORT

To ensure Council's infrastructure is adequately protected a pre-construction dilapidation report on the existing public infrastructure within the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable:

- Road pavement
- Kerb and gutter
- Footpath
- Drainage pits and lintels
- Traffic signs
- Any other relevant infrastructure

The report is to be dated, submitted to, and accepted by Council's Public Infrastructure Engineer, prior to any work commencing on the site. All fees and charges associated with the collation of this report shall be at the cost of the Applicant.

60. PUBLIC DOMAIN ENGINEERING INSPECTIONS

To ensure all public infrastructure engineering works required by Council under this consent will be constructed to Council satisfaction, inspection(s) will be required and compliance certificates must be obtained from Council's Public Infrastructure Engineer for the road pavement, kerb and gutter, stormwater, footpath paving, undergrounding, street lights, street trees and landscape hold points.

D. PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE

The requirements outlined in this section are to be provided to the satisfaction of the Principal Certifying Authority in all instances, except where a condition explicitly specifies that the approval of Council or a Council Officer is required, prior to the issue of an Occupation Certificate or Subdivision Certificate, whichever applies.

CERTIFICATES, LICENCES, EASEMENTS AND RESTRICTIONS

61. FINAL OCCUPATION CERTIFICATE

Prior to occupation or use of the development, an Occupation Certificate must be obtained.

The Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning & Assessment Act 1979* have been satisfied including all critical stage inspections. Documentary evidence of all required inspections is to be submitted to Council.

62. CERTIFICATION OF ACOUSTIC PERFORMANCE

An acoustic report/certificate prepared by a suitably qualified acoustic consultant is to be submitted to the Principal Certifying Authority and the Council, certifying that all acoustic conditions of consent (including the operational conditions) have been satisfied.

63. CERTIFICATION OF ALL MECHANICAL PLANT

A Certificate of Test of all mechanical plant together with a copy of the final test figures, conducted by a suitably qualified person, certifying that the system complies with the conditions of this consent, National Construction Code (NCC) and relevant Australian Standards.

64. CERTIFICATION OF BASIX COMMITMENTS

The Principal Certifying Authority shall certify that the all the undertakings in the approved BASIX certificate have been completed.

65. CERTIFICATION OF APPROVED DESIGN (SEPP 65 BUILDINGS)

In accordance with the Environmental Planning and Assessment Regulations 2000, the Principal Certifying Authority must not issue an occupation certificate, to authorise a person to commence occupation or use of the development unless it has received a design verification statement from an architect who is registered in accordance with the Architects Act 2003 (i.e. qualified designer) that verifies that the building achieves the design quality of the development as shown in the plans and

specifications in respect of which the construction certificate was issued, having regard to the design quality principles.

66. CERTIFICATION OF LANDSCAPING

At the completion of all works a certificate is to be submitted to the Principal Certifying Authority from a qualified Landscape and/or Arboriculture Consultant certifying that the work has been completed in accordance with the approved Landscape Plan and that a maintenance program has been established. If relevant, the waterproofing on any green roof is to be tested and evidence of the test is to be provided with the certification.

67. RESTRICTION AS TO USER (AFFORDABLE HOUSING)

A restriction as to user must be registered in accordance with section 88E of the Conveyancing Act 1919 on the title which restricts the use of any accommodation to which this development consent relates.

The terms of the restriction as to user are to be approved by Council in writing prior to registration. The Council shall be the party who has the right to modify or extinguish the restriction. All legal costs associated with the registration of the restriction is to be borne by the owner.

68. FIRE SAFETY WORKS

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

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

PUBLIC DOMAIN

69. SUPERVISING ENGINEER FINAL CERTIFICATE – PUBLIC DOMIAN

Prior to the issue of any Occupation Certificate for the works, the Applicant shall submit to Council, a final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved plans and Waverley Council standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

70. WORK-AS-EXECUTED PLAN – PUBLIC DOMIAN

To ensure public infrastructure works required under the consent are completed in accordance with approved plans and specifications, a Work-as-Executed plan of the works, prepared by a registered

surveyor is to be submitted to the Principal certifying Authority and Council for review with any required rectification works completed and approved by Council prior to issue of any Occupation Certificate.

The W.A.E plans are to note all departures clearly in red on a copy of the approved Construction Certificate plans and certification from an experienced chartered civil engineer shall be submitted to support all variations from approved plans.

71. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

To ensure public infrastructure works required under the consent are completed to Council's satisfaction a final inspection of the completed works is required from Council's Infrastructure Engineer. The Occupation Certificate shall not be issued until certification has been obtained from Council confirming the public infrastructure works have been constructed to Council's satisfaction.

STORMWATER

72. WORKS-AS-EXECUTED DRAWINGS – STORMWATER DRAINAGE SYSTEM

- (a) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor. This drawing must detail the alignment of all pipelines, pits, detention facility, rainwater reuse facility and other drainage related infrastructure. An original or a colour copy must be submitted to Waverley Council. Where changes have occurred, the Council approved plans shall be marked-up in red ink and shall include levels and location for the drainage structures and works.
- (b) A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

73. CERTIFICATION OF CONSTRUCTED STORMWATER DRAINAGE SYSTEM

Prior to issue of any Occupation Certificate, certification is to be provided from a suitably qualified and practising Engineer, that any new stormwater drainage system has been constructed in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice. A copy of the aforementioned letter of certification must be submitted to Council.

74. CREATION OF POSITIVE COVENANT AND RESTRICTION FOR OSD

Prior to the issue of an Occupation Certificate, a "Positive Covenant" and "Restriction on the Use of Land" shall be created for the On-Site Stormwater Detention (OSD) system, under Section 88E of the Conveyancing Act 1919. This is to place a restriction on the Title that the OSD system is maintained and

kept free of debris/weed to allow unobstructed passage of stormwater through the site and underneath the residence. The property owner/occupant shall not modify or remove the OSD system without consent from Council.

The wording of the Instrument shall be submitted to and approved by Executive Manager, Infrastructure Services (or delegate) prior to lodgement at NSW Land Registry Services.

Where a Title exists, the Positive Covenant and Restriction on the Use of Land is to be created via an application to the NSW Land Registry Services using forms 13PC and 13RPA. Accompanying this form is the requirement for a plan to scale showing the relative location of the OSD system, including its relationship to the building footprint. Electronic colour photographs of the OSD system shall accompany the application for the Positive Covenant and Restriction on the Use of Land.

The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority prior to the issue of an Occupation Certificate or use of the building. All associated costs shall be borne by the applicant.

75. PLANNED PREVENTATIVE MAINTENANCE SCHEDULE FOR PUMP OUT SYSTEM

The registered proprietor shall be required to submit written intent to establish and maintain a Planned Preventative Maintenance (PPM) schedule of the pump out systems prior to the issue of Occupation Certificate. Council will not be liable for any claims for damages arising from the failure of the pump out systems. Evidence shall be submitted to the Executive Manager, Infrastructure Services or delegate prior to the issue of the Occupation Certificate.

MANAGEMENT PLANS

76. PLAN OF MANAGEMENT - WASTE AND RECYCLING STORAGE

A Waste Management Plan must be submitted to Council's Executive Manager, Environmental Sustainability (or delegate) and include including the following where relevant.

- (a) All arrangements including relevant and current contracts for recyclables and all other waste (collection and disposal)
- (b) The waste storage area and bins must be cleaned and maintained regularly with appropriate lighting.
- (c) The role and responsibility of managing composting facilities (if provided).
- (d) Clear signage identifying the different bin types and storage area for bulky household waste and problem waste must be displayed.
- (e) The recycling bins must be placed alongside the general waste bins for ease of access and to encourage recycling habits.
- (f) Responsibilities for transporting bins from the storage points to the nominated collection area, cleaning of bins, cleaning of storage areas and booking and transporting bulky waste for Council pick up must be outlined in contracts with the building manager, cleaners and tenants.

- (g) All waste and recycling bins must be collected on site.
- (h) The occupant/body corporate shall be provided with at least one copy of the Waste Management Plan.
- (i) At no times shall bins be stored on the public domain (e.g. footpaths).

NOISE

77. NOISE – ACOUSTIC REPORT

Upon selection of mechanical plant/air conditioning units and any other mechanical items an Acoustic Assessment Report prepared by a suitably qualified acoustic consultant shall be prepared to assess the impacts of the development (internal and external areas) including any mechanical plant, refrigeration motors and air conditioning units and make recommendations to ensure that the noise from the development will be within the acceptable limits of the Protection of the Environment Operations Act 1997 and relevant legislation. The plan must be submitted to the satisfaction of Council's Executive Manager, Compliance (or delegate).

Note: Any management measures recommended in the acoustic report shall be incorporated into a Plan of Management, which will be required to be submitted to Council for approval prior to the issue of an Occupation Certificate.

For further information on the requirements, refer to Council's website:

[https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications - conditions of consent](https://www.waverley.nsw.gov.au/building/development_applications/post_determination/development_applications_-_conditions_of_consent)

78. ACOUSTIC REPORT RECOMMENDATIONS

The "recommendations" as outlined in section 5 (for various noise sources) the acoustic report referenced in Condition 1 shall be implemented.

79. MECHANICAL VENTILATION SYSTEMS

The premises are to be ventilated in accordance with the requirements of the Building Code of Australia & relevant Australia Standards.

OTHER MATTERS

80. SYDNEY WATER SECTION 73 COMPLIANCE CERTIFICATE

A Section 73 Compliance Certificate must be issued from Sydney Water prior to the issue of an occupation certificate.

81. WAVERLEY DIGITAL MODEL

An accurate 'as built' 3D digital model of the building must be submitted to be used in the Waverley Digital Model, to the satisfaction of Council's Digital Urban Designer which complies with the requirements outlined in on Council's website at:

https://www.waverley.nsw.gov.au/building/development_applications/decision_makers/3d_modelling

82. ALLOCATION OF STREET NUMBER

The redevelopment of the property has led to the following allocation of premises numbers:

- No. 7 - primary address site number
- Bondi Road - primary address location.

The primary address site number for the property shall be a minimum of 75mm high and shall be positioned 600mm-1500mm above ground level, located near the pedestrian entry point and be clearly visible on the site boundary that fronts Bondi Road.

The following sub-addressing will apply:

- Nos. G01 -G04 for the sub-addresses within the building correlating with Ground floor plans for the building.
- Nos. 101 -105 for the sub-addresses within the building correlating with First floor plans for the building.
- Nos. 201 -205 for the sub-addresses within the building correlating with Second floor plans for the building.
- Nos. 301 -305 for the sub-addresses within the building correlating with Third floor plans for the building.
- Nos. 401 -405 for the sub-addresses within the building correlating with Fourth floor plans for the building.
- Nos. 501 -505 for the sub-addresses within the building correlating with Fifth floor plans for the building.
- Nos. 601 -605 for the sub-addresses within the building correlating with Sixth floor plans for the building
- Nos. 701 -705 for the sub-addresses within the building correlating with Seventh floor plans for the building.
- Nos. 801 -802 for the sub-addresses within the building correlating with Eighth floor plans for the building.

The address number for a sub-address site shall consist of the sub-address followed by the number of the primary address site.

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

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

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

Any variation to the above premises numbering requires a new application for a Change of street number and/or location to be lodged with Council.

83. AMALGAMATION OF LOTS

All lots forming the site, that is, being Nos. 7, 9, 11, 13 and 15 Bondi Road BONDI JUNCTION shall be amalgamated into one lot prior to the issue of an Occupation Certificate.

E. OPERATIONAL MATTERS

The following operational conditions must be complied with at all times, throughout the use and operation of the development or use.

PARKING AND ACCESS

84. VEHICLE ACCESS

All vehicles including service vehicles entering and exiting the building are to do so in a forward direction.

Any vehicle utilising a car, motorcycle or bicycle space is to be parked fully within the confines of the site and is not to park over the public footway at any time.

85. PARKING PERMITS

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

86. ADJUSTMENTS TO STREET SIGNS

Any street signs required to be removed as a result of the works shall be relocated at the applicant and/or owner's expense in accordance with Council's requirements.

87. ON SITE GARBAGE COLLECTION

The collection of residential waste and recycling is to be undertaken on the site. No bins are to be stored or left on the street for collection.

88. DELIVERY OF GOODS

Loading and unloading of vehicles and delivery of goods to the building are to be carried out within the site.

AMENITY & SAFETY

89. WASTE MANAGEMENT PLAN REVIEW

After 5 years of operation under this development consent, the Approved Waste Management Plan is to be reviewed to ensure that the details including contracts, roles and responsibilities, commercial tenants (if relevant) are current. The updated plan is to supersede the previous plan.

90. HOURS OF OPERATION OF COMMUNAL OPEN SPACE (ROOF TOP)

The use of the communal open space on the roof level of the development shall be restricted to the following hours:

- (a) Monday to Friday (excluding public holidays) 7am to 9pm
- (b) Weekends and public holidays 8am to 9pm
- (c) New Year's Eve 9am to 12:30am.

91. NOISE EMISSIONS

The use of the premises shall not give rise to the transmission of "Offensive noise" as defined in the Protection of the Environment Operations Act 1997 to any place of different occupancy.

A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the use in accordance with Australian Standard 1055.

F. ADVISORY MATTERS

The following advisory matters are provided as additional information to ensure compliance with the relevant legislation and requirements. You must also check other Commonwealth and NSW Acts and Regulations which may apply to the works or use approved in this application.

AD1. POST CONSENT CONDITIONS REQUIRING COUNCIL INPUT

Various conditions require further input, review or approval by Council in order to be satisfied following the determination of the application (that is, post consent). In those instances, please adhere to the following process to avoid delays:

- Please read your conditions carefully.
- Information to be submitted to Council should be either via email to info@waverley.nsw.gov.au or via the NSW Planning Portal (if required).
- Attention the documentation to the relevant officer/position of Council (where known/specified in condition).
- Include DA reference number.
- Include condition number/s seeking to be addressed.
- Where multiple conditions need Council input, please try to group the documentation / email/s into relevant subjects (multiple emails for various officers may be necessary, for example).
- Information to be submitted in digital format – refer to ‘Electronic lodgement guidelines’ on Council’s website. Failure to adhere to Council’s naming convention may result in documentation being rejected.
- Where files are too large for email, the digital files should be sent to Council via CD/USB. Council does not support third party online platforms (data in the cloud) for receipt of information.
- Please note, in some circumstances, additional fees and/or additional documents (hard copy) may be required.
- Council’s standard for review (from date the relevant officer receives documentation) is 14 days. Times may vary or be delayed if information is not received in this required manner.

AD2. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual’s responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

AD3. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on 1800 810 443.

AD4. EXCAVATION TO BE LIMITED

Excavation shall be limited to that shown in the approved plans. Any further excavation will require Council approval.

AD5. TREE REMOVAL/PRESERVATION

Any trees not identified for removal in this application have not been assessed and separate approval may be required. Any pruning of trees on adjoining properties required for the erection of scaffolding and/or the construction of the building may also require approval.

AD6. BUILDING TO BE WRAPPED

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

AD7. PUBLIC UTILITIES AND SERVICE ALTERATIONS

Any utility services and all public infrastructure which require alteration due to works associated with the development, both internally and externally of the development boundary, shall be altered at the Applicant's expense. This includes both temporary and permanent alterations. Upon notifying Council, the Applicant must comply with the requirements (including financial costs) of the relevant utility service provider (e.g. Ausgrid, Sydney Water, Telstra, RMS or similar) in relation to any connections, repairs, relocations, replacements and/or adjustments to public infrastructure or services affected by the proposed works.

AD8. NOTICE OF INTENTION TO COMMENCE PUBLIC DOMAIN WORKS

Prior to commencement of the public domain works notice shall be submitted to Councils Public Domain Engineer. This notice shall include the name and insurance details of the Contractor who will be responsible for the construction works, and details of the managing site supervisor/engineer. The

applicant is also responsible for obtaining all Road Activity Permits required for the works, from the respective authorities.

AD9. PUBLIC DOMAIN PRE-CONSTRUCTION MEETING

To ensure all public infrastructure works approved under this consent will be completed to Council's satisfaction and a program of required inspections is established, a preconstruction meeting shall be arranged with Council's engineering inspector/s prior to works commencing on site.

AD10. CERTIFICATION OF PUBLIC INFRASTRUCTURE WORKS

The issue of a Final Compliance Certificate from the Council Engineer will be withheld should there be any outstanding fees and charges applicable to the development. This includes but not limited to fees applicable for engineering plans assessment and work inspection fees.

The refund of any damage and/or security deposits will be subject to satisfactory restoration and rectification of all civil infrastructure that have dilapidated as a result of the construction activities associated with this development consent.

To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works completed by the applicant/developer following completion of the development. The defects liability period shall commence from the date of issue of the Occupation Certificate for the development. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period.

AD11. STRATA SUBDIVISION

No approval is granted or implied for the strata subdivision of the development in this development consent.

In respect to any future subdivision, the allocation of car parking and storage spaces, those spaces are not permitted to be subdivided as individual allotments and are to be part lots allocated to individual residential allotments or identified as common property as shown on the approved plans. Part allotments are to be generally allocated in accordance with the parking and storage requirements of Waverley Development Control Plan 2012. No exclusive use of common property shall occur without the prior consent of Council.

AD12. SUITABLY QUALIFIED ACOUSTIC CONSULTANT

In these conditions, reference to a suitably qualified acoustic consultant means an individual who possesses the qualifications to render them eligible for membership of both the Australian Acoustics Society and Institution of Engineers Australia at the grade of member or an individual who is employed by a member firm of the Association of Australian Acoustic Consultants.