

APPENDIX A. STATUTORY ASSESSMENT AND SUMMARY

Objects of the Environmental Planning and Assessment Act 1979 (EP&A Act)

The objects provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the objects of the Act.

The objects of the Act in section 5 are as follows:

- (a) *To encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities,*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
 - (vii) *ecologically sustainable development,*
 - (viii) *the provision and maintenance of affordable housing,*
- (b) *To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

It is considered that on balance, with consideration of the benefits provided for in the proposal such as, pedestrian connections, housing, jobs, tourism, shopping, dining, recreation and fitness opportunities, the project application promotes the co-ordination of the orderly and economic use and development of land and provides a better built form and a positive amenity environment.

With respect to ESD, the EP&A Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the Project Application. The balancing of the application in relation to the Objects is provided in **Section 7**.

Statement of Compliance

Under Section 75I of the EP&A Act 1979 and Clause 8B of the EP&A Regulation 2000, the Director General's report is required to include a statement relating to compliance with environmental assessment requirements with respect to the project.

The Department is satisfied that the environmental requirements have been complied with.

Ecological Sustainable Development Principles

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** - The social, environmental and economic impacts of the proposal are positive and the development would provide a positive reuse of the site for tourism, employment, commercial, retail and residential use. The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval will not compromise benefits or opportunities to others. The development will also improve landscaping on and surrounding the site and assist in creating a benchmark for further revitalisation of the locality.
- **Precautionary Principle** – The EA is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The Proponent has demonstrated that the development design and appropriate mitigation measures will be implemented to prevent any detrimental environmental impacts. Mitigation measures are recommended in the conditions of approval. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The site's redevelopment for tourism, commercial, retail and residential uses incorporating ecologically sustainable design principles and implementation of environmental management practices to be employed during construction of the new development, will ensure that the environment is protected for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of this proposal. The proposal does not impact upon biological diversity or ecological diversity. The site is in close proximity to Bondi Beach and is currently being used as a club premises, retail and residential purposes.
- **Valuation Principle** – The proposal seeks to promote new tourism, commercial, retail and residential development within an existing urban area by maximising reliance on existing infrastructure, and enabling residents to live near work, leisure and other opportunities. The project will deliver a significantly improved environment that will have greater economic, ecological and community value than the current and previous uses occupying the site.

The Proponent is committed to ESD principles and has reinforced this through the Environmental Assessment which explores key ESD opportunities, including but not limited to rainwater harvesting and re-use, water efficient appliances, solar boosted gas hot water system, high efficiency air conditioning, ventilation and fixtures and fittings, sophisticated building management

system that minimises energy use, waste sorting facilities, proximity to public transport and the provision of bicycle storage for residents and hotel guests. The Proponent is also currently investigating grey water re-use for hotel laundry, sustainable timber and low toxicity materials and refrigerants.

Contributions are also to be paid to assist Council in providing long term services to the community. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

Section 75I(2) of the Act

Section 75I(2) of the *Environmental Planning and Assessment Act 1979* and clause 8B of the *Environmental Planning and Assessment Regulation 2000* provides that the Director General's Report is to address a number of requirements. These matters and the Departments response are set out as follow:

Section 75I(2) criteria	Response
Copy of the Proponent's environmental assessment and any preferred project report;	The Proponent's EA and PPR are provided at Appendix B and Appendix C of this report.
Any advice provided by public authorities on the project;	All advices provided by public authorities on the project for the Minister's consideration is set out in Section 6 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Identification of each relevant SEPP that substantially governs the carrying out of the project, including an assessment of the impact of the SEPPs on the development proposal in Appendix A of this report.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division,	An assessment of the development relative to the prevailing environmental planning instrument is provided in Appendix A of this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate;	The environmental assessment of the project application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	DGRs were not issued in respect of this project. See Section 5.2 for discussion.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Sections 7 of this report.
Any aspect of the public interest that the Director General considers relevant to the project	The public interest is discussed in Section 9 of this report.
The suitability of the site for the project	The project represents a redevelopment of an underutilised site within an established urban area for retail/commercial activity suitable for the locality.
Copies of submissions received by the Director General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 6 and Appendix E of this report.

Environmental Planning Instruments (EPIs)

Application of EPI's to Part 3A Projects

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project application. An assessment of compliance with the relevant EPI's is provided immediately below which concludes that the proposal complies with these documents.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55);
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy (BASIX) 2004; and,
- Waverley Local Environmental Plan 1996 (LEP 1996).

The provisions, including development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R(1) in Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations for this application as Section 75I(2)(e) of the Environmental Planning and Assessment Act, 1979 require the Proponent to address such standards and provisions and the Department to duly consider them.

Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment as follows.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy 55 – Contaminated Land

Clause 7(1)A of SEPP 55 states that a consent authority must ascertain whether the site is contaminated and requires remediation prior to issuing consent. The Proponent has undertaken Phase 1 Assessment of the site (refer to **Appendix O** of the EA) and this determined that it is unlikely that there is any significant contamination at the site.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

A Design Verification Statement has been provided by Bates Smart stating that the subject development has been designed having respect to the design quality principles.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located within the 3(a) "Business General" zone which encourages mixed use development. The site has good access to public transport services including the Sydney Bus Network, employment, services and facilities, and, recreation opportunities and is appropriate for high density development
Principle 2: Scale	With the recommended conditions relating to the increased rear setback to Level 7 the bulk and scale of the proposed development is considered appropriate in the context of the zone. The recommendation to modify Level 7 would provide an

	improved transition through the site from the 3(a) "Business General" zone to the adjoining 2(c1) "Residential" zone to the rear. Further, it is noted that the proposed development is similar in scale to the existing buildings, in terms of the location of bulk across the site. With the Department's recommended modification, the relationship of the proposal to the adjoining properties is vastly improved.
Principle 3: Built Form	<p>It is considered the proposed development would provide an effective transition between the 3(a) "Business General" zone and the adjoining residential zone to the north. In addition, Level 4 – Level 7 inclusive are progressively setback from the 4 storey podium at the rear, reducing the bulk and scale of the development when viewed from O'Brien Street.</p> <p>Subject to the increased rear setback to Level 7, the proposed development is considered to present a significant visual improvement as it is well articulated to reduce bulk, increase amenity and create architectural interest.</p>
Principle 4: Density	<p>The site is located in a 3(a) "Business General" zone which provides for the integration of a mixture of uses inclusive of commercial, retail, residential and tourism.</p> <p>Additional floor space (in excess of FSR controls) has been redistributed across the site into a tower element which is considered to be of an acceptable scale and form in the context of its environment. Further, the additional western podium wing, subject to conditions relating to design and setbacks, is not considered to present unreasonable impacts to adjacent properties located in the 3(a) "Business General" zone.</p>
Principle 5: Resource, Energy and Water Efficiency	The Proponent has submitted a BASIX Certificate and the proposal incorporates a number of required and voluntary measures to ensure the sustainable design, construction and ongoing operation of the development incorporating efficient use of natural ventilation and energy and water use.
Principle 6: Landscape	<p>The retention of existing street trees on Hall Street, the additional planting of street trees in O'Brien Street, upgrading of footpaths, and perimeter planting along the south eastern boundary will ensure the integration of the development with the surrounding area is significantly improved when compared to the existing situation.</p> <p>Further, an additional hard and soft landscaped area will be provided in the centre of the site incorporating a separate pool and spa to activate the central courtyard space.</p>
Principle 7: Amenity	<p>The proposed development has been well designed to minimise potential overshadowing impacts and is considered acceptable by the Department in this regard.</p> <p>Following concerns raised by the Department, the side and rear setbacks of the podium and rear setbacks of the tower were increased to reduce privacy/amenity impacts, particularly to No. 8 O'Brien Street adjacent to the east. Subject to the Department's recommended conditions relating to the increased rear setback to Level 7, increased setback of Level 2 of the western podium 'wing' and restricted pedestrian access to the eastern terrace at</p>

	<p>Level 2, the Department is satisfied that amenity impacts have been effectively mitigated.</p> <p>The proposed development is not considered to give rise to any substantial acoustic impacts, and conditions have been imposed in this regard.</p>
Principle 8: Safety and Security	<p>A Crime Prevention Through Environmental Design Assessment (CPTED) has been undertaken which lists a number of safety and security measures, both passive and operational such as CCTV, automatic lighting, 24 hour security, 24 hour presence for the serviced apartments and residential concierge.</p> <p>The proposal incorporates a through site link for public access between Hall Street and O'Brien Street, which is considered to increase passive security through the activation of the internal space and through pedestrian movement.</p> <p>In addition, the proposed hotel apartments and residential units have been designed to include windows and balconies overlooking both the internal courtyard space and both street frontages, also providing excellent passive surveillance to both street frontages.</p>
Principle 9: Social Dimensions and Housing Affordability	<p>The development includes a mix of 1, 2 and 3 bedroom apartment to provide a variety of housing options to meet the needs of the community.</p> <p>A relocation strategy has been provided by the Proponent for tenants of existing buildings on site which demonstrates a commitment to providing assistance to existing tenants with finding suitable alternative accommodation. The Proponent has offered to make a monetary contribution via a VPA for the provision of affordable housing.</p>
Principle 10: Aesthetics	<p>The bulk, massing and articulation of the building have been appropriately designed to be complementary to the local area.</p> <p>The use of lightweight materials and finishes is a significant improvement when compared to the existing collection of buildings on site.</p> <p>The overall composition of the proposed development is consistent with the beachside aesthetic of Bondi.</p>

Residential Flat Design Code

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

The proposal has been assessed against these development controls as follows:

- The Code recommends that apartment building depth should be between 10 metres and 18 metres. The proposed apartment building depths range from 10 metres to 21 metres, which on balance is considered to meet the objectives of the code, particularly given the relatively narrow apartment depth (9 metres or less).

- The Code provides building separation requirements in order to maximise visual privacy between residential flat buildings and other residences. The proposal is considered to comply with the objectives of this control as the residential apartments commence at Level 3, which is at roof height of the building at 59 Hall Street.
- The Code recommends 25-30% communal open space is provided to such a development. The Proponent has demonstrated that 20% of the total site area will be communal open space. Whilst this falls short of the rule, the area provided is located in the central courtyard comprising hard and soft landscaping, a pool and spa. The communal area is therefore considered to be acceptable in this urban location.
- A Crime Prevention Through Environmental Design (CPTED) Assessment has been undertaken which detailed compliance with the principles of CPTED. This assessment satisfies the Code requirement for a crime risk assessment.
- The Code recommends minimum internal apartment sizes for 1, 2 and 3 bedroom apartments respectively. The Proponent has demonstrated compliance with this rule.
- The Code also recommends minimum areas for private open space. The Proponent has also demonstrated compliance with this rule.
- The Code states that single aspect apartments should be limited to <8 metres in depth, and that the back of kitchens should be no more than 8 metres from a window. The proposal complies with both of these recommendations.
- The Code provides minimum balcony depths for primary balconies of 2 metres. Primary balconies to all apartments are a minimum of 2 metres in depth.
- Minimum ceiling heights as recommended by the Code have been met in both habitable and non-habitable areas.
- The code recommends that a maximum of 8 apartments be accessed of a single corridor. The proposal complies on Levels 4 to 7 inclusive. Level 3, which does not comply, comprises a longer hallway due to the tower and podium sharing the same floor plate. Whilst this level does not comply, the desired streetscape character and entry has been achieved. Further, individual apartments are all generally less than 8 metres in depth allowing adequate amenity for future residents. The proposal is considered to adequately address this control.
- The proposal has been designed to comply with the Code's recommended minimum storage areas for each apartment.
- The Code recommends that 70% of living areas and private open space receive 3 hours of direct sunlight between 9am and 3pm in mid winter, which may be reduced to 2 hours in dense urban areas. A maximum of 10% of apartments should have a single southerly aspect. 53% of apartments receive a minimum of 2 hours of direct sunlight to living areas and private open space in mid winter which is less than the desired minimum. Of these apartments that do not comply, minimum internal and external living areas have been exceeded and district and ocean views are enjoyed from living areas contributing to the amenity of these apartments. In addition, the communal open space (pool and spa area) located in the central courtyard will enjoy 3 hours of daylight in mid winter. 9% of apartments have a southerly only aspect which complies with the recommended control. Further, the Proponent has indicated that skylights could be provided to these non-compliant apartments, increasing solar access to 69%.
- Whilst the recommended 60% of apartments are not cross ventilated (38%), all other apartments are generally less than 8 metres in depth with articulated glazing allowing for natural ventilation. More than 25% of kitchens are able to be naturally ventilated, which complies with the Code.

The proposed development is generally consistent with the aims and provisions of the Code.

State Environmental Planning Policy (Infrastructure) 2007

The Department referred the subject application to the RTA as part of the consultation process. Refer to **Section 6.2** for RTA's comments.

State Environmental Planning Policy (Major Development) 2005

Under Schedule 1, Group 5 of the MD SEPP, tourist, convention or entertainment projects with a capital investment value (CIV) of more than \$100 million or employing 100 or more people may be declared a Major Project under Part 3A of the EP&A Act 1979. The project proposes hotel uses with ancillary residential, retail and commercial uses that will provide up to 198 full time employment opportunities, 155 of which relating directly to tourism.

On 26 September 2009, the Director General, as a delegate of the Minister, formed the opinion that the project is development of a kind described in Schedule 1 to that Policy (cl 17(b) - tourist related facility employing more than 100 people). The proposal is thus declared a project to which Part 3A of the EP&A Act applies.

At the same time, the Director General accepted the Development Application (DA), Statement of Environmental Effects (SEE) and accompanying documentation submitted to Waverley Council under Part 3A of the Act.

State Environmental Planning Policy (BASIX) 2004

SEPP - BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. The current targets of BASIX for Residential Flat Buildings commenced on 1 July 2006.

SEPP BASIX requires all new residential dwellings in NSW to meet the specified sustainability targets of a 20% reduction in energy use and 40% reduction in potable water

A BASIX Certificate has been submitted for the residential component of the proposal as per the SEPP BASIX requirement for multi-unit housing. The Certificate indicates that the residential component will satisfactorily meet the BASIX targets with a 20% reduction in energy use and a 41% reduction in potable water See **Appendix H** of the Proponent's EA.

Waverley Local Environmental Plan (LEP) 1996

The site is zoned 3(a) "Business General" under the Waverley LEP 1996. The Business General zone permits hotel, commercial, retail and residential uses.

Waverley LEP 1996			
Provisions	Permitted	Proposed	Compliance
3(a) Zone Objectives	(a) to allow for retail, entertainment, tourist and commercial uses (b) to allow for residential development mixed with other permissible uses so as to encourage urban consolidation and increase the vitality of localities within this zone, and	The proposed development is consistent with the aims and objectives of the zone.	Yes

	(c) to control the physical and functional characteristics of business centres so as to minimise their impact on neighbouring residential areas		
Environmental Considerations (cl. 21-26)	Council must consider consumption of non-renewable resources and global warming, water pollution, air pollution, ozone-depleting substances, energy efficiency and energy conservation, waste management	The Proponent has provided an ESD Options Report and Waste Management Plan. Refer to Appendix E & I of the EA	Yes
FSR (cl. 27)	2:1 (1:1 non-residential + 1:1 residential)	4.15:1 (3.1:1 non-residential + 1.2:1 residential)	No
Height (cl. 28)	12m	26.245m	No
Aesthetic appearance (cl. 30)	Aesthetic appearance must be assessed if the site is visible from Bondi Beach	The site will be visible from Bondi Beach. The proposal would improve the aesthetic appearance of the site when viewed from Bondi Beach.	Yes
Development along zone boundaries (cl. 32)	<p>Council must take into account zone objectives of any adjoining zone and to the measures to reduce the adverse impact of the development on land within the adjoining zone.</p> <p>Zone 2(c1) objectives:</p> <p>(a) to allow for a variety of medium and high density housing forms, including boarding houses, dwelling-houses, residential flat buildings and townhouses,</p> <p>(b) to maintain and improve the amenity of the locality, and</p> <p>(c) to allow certain non-residential uses of low intensity which are compatible with the character and scale of the existing locality</p>	<p>The subject site adjoins the 2(c1) zone at the north eastern corner of the site.</p> <p>The PPR has revised plans in this location by increasing side and rear setbacks to the common side boundary which has had the desired effect of reducing height, bulk and scale on the adjoining residential zone. Further, the Department's recommended increased rear setback to Level 7 and increased setbacks to Level 2 of the western podium 'wing' will ensure the zone objectives are met for this residential zone.</p>	Yes

APPENDIX B. ENVIRONMENTAL ASSESSMENT

See enclosed CD or the Department's website www.majorprojects.planning.nsw.gov.au

APPENDIX C. PREFERRED PROJECT REPORT

See enclosed CD or the Department's website www.majorprojects.planning.nsw.gov.au

APPENDIX D. REVISED STATEMENT OF COMMITMENTS

Subject	Commitment
1. General	The development will be constructed generally in accordance with the EARs (June 2008 and December 2008) and PPR (March 2010) prepared by Robinson Urban Planning Pty Ltd (and accompanying consultant reports) and the Architectural and Landscape Plans listed at Table 1 of the PPR.
2. Affordable Housing	A monetary contribution of \$432,580 towards the provision of affordable housing will be paid to Waverley Council by the proponent prior to the release of the Occupation Certificate.
3. Section 94A	Pursuant to the Waverley Section 94A Development Contributions Plan 2006, a monetary contribution equivalent to 1% of the cost of development will be paid to Waverley Council. An Amended Registered Quantity Surveyor's Detailed Cost Report will be prepared prior to the issue of a Construction Certificate and the contribution will be paid to Waverley Council prior to the release of the Occupation Certificate.
4. Through site link	The through site link will be accessible to the public during the retail/restaurant/bar trading hours. At other times, the through site link will be secured.
5. Community room	A community meeting room (multi-purpose space) will be provided on Level 000 (Drawing A2.204 Rev 3) and will be available for hire by the community.
6. Swimming pool	A publicly accessible swimming pool will be provided on Level 00 (Drawing A2.205 Rev 3).
7. Public domain works	The Hall Street footpaths along the frontage of the site will be reinstated to a standard consistent with the existing standard of footpath finish at the eastern end of Hall Street. The O'Brien Street footpath along the frontage of the site will be reinstated to a standard consistent with the existing standard of footpath finish elsewhere in O'Brien Street.
8. Traffic and transport	A car parking strategy will be prepared considering a range of initiatives including: <ul style="list-style-type: none"> - The use of car share schemes - Preparation of a Travel Access Guide (TAG) - Provision of bike storage (at least 65 spaces), change room and shower amenities
9. Car park and loading	<p>a) The swept path of the longest required vehicle (including garbage trucks) entering and exit the site, as well as manoeuvrability through the site, will be in accordance with AUSTROADS.</p> <p>b) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) will be in accordance with AS 2890.1 – 2004 (Parking Facilities, Part 1: Off street car parking) and AS 2890.2 – 2002 (Parking Facilities, Part 2: Off-street commercial vehicle facilities).</p>
10. Groundwater	The conditions and requirements of the Department of Climate Change and Water (Office of Water) (as set out in its letter dated 4 December 2009) will be satisfied in accordance with the advice of Douglas Partners as attached to the PPR.

Subject	Commitment
11. ESD	The schedule of commitments in BASIX Certificate Number 302562M will be implemented.
12. Archival recording of existing Hakoah Club building	An archival recording/interpretation of the Hakoah Club building will be completed in accordance with the recommendations of the Brief Heritage Assessment, by Otto Cserhalmi + Partners P/L (as appended to the EAR dated June 2008).
13. Waste management	<p>The waste management recommendations set out in the Waste Management Plan, by JD Macdonald, will be implemented (as appended to the PPR).</p> <p>A construction waste management plan will be prepared prior to the commencement of any demolition of construction works and implemented by the demolition/construction contractor.</p>
14. Accessibility	The recommendations of the Accessibility Review, by Morris-Goding Accessibility Consulting (as appended to the PPR) will be implemented.
15. BCA and Fire Engineering	In accordance with the BCA Compliance Report, by Steve Watson & Partners (as appended to the PPR), a fire engineered alternative solution is required to be formulated to comply with the Performance Requirements of the BCA and the approval of the NSW Fire Brigades prior to the issue of a Construction Certificate.
16. Contamination, remediation and geotechnical	Environmental assessment works will be completed and an appropriate remediation strategy (if required) will be completed to ensure that the site is remediated to a level suitable for the proposed use (in accordance with the findings and recommendations of Douglas Partners and ERM as appended to the EAR dated December 2008).
17. Noise	The recommendations of the External Noise Intrusion, by Acoustic Logic Consultancy, will be implemented (as appended to the EAR dated December 2008).
18. Public art	Public art opportunities will be incorporated into the project.
19. Construction management	A Construction & Demolition Environmental Management Plan and a Traffic Management Plan for the demolition/construction phase will be prepared prior to the issue of a Construction Certificate and implemented throughout demolition and construction.
20. Dilapidation reports	Dilapidation Reports (including photographic surveys) of the adjoining properties will be prepared by a qualified structural engineer prior to the commencement of demolition works.
21. Resident relocation	The recommendations of the Resident Relocation Strategy, by Elton Consulting (as appended to the EAR dated December 2008) will be implemented.
22. Aboriginal archaeology	Should any potential archaeological or aboriginal relics be uncovered during excavation and site works, the proponent will contact the Heritage Branch of the DoP.
23. Consultation with utilities providers	The requirements of any public authorities will be complied with (e.g. Telstra, Energy Australia) in regard to the connection to, relocation and/or adjustment of services affected by the project. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted prior to the issue of a Construction Certificate.
24. Future applications	<p>Separate applications will be prepared in relation to:</p> <ul style="list-style-type: none"> - strata subdivision - retail/restaurant/bar tenancy uses and fitouts - advertising signage - outdoor cafe/restaurant seating

APPENDIX E. SUMMARY TABLES OF SUBMISSIONS – COUNCIL & PUBLIC SUBMISSIONS

Refer to tables below.

Summary of Council Submission to the EA	
Issue	Department Comment
Inadequacy of EA due to the lack of consideration of the proposal against SEPP 32 (Urban Consolidation).	The Proponent has addressed SEPP 32 in the PPR. Council's comments have been noted.
Inaccuracies and misrepresentations in the EA.	The Department notes the inaccuracies and misrepresentations contained within the application.
Proposal should not be assessed against the current approval, but rather, should be assessed against the existing buildings.	Noted. The Department has based its assessment of the application against the existing buildings on site.
Does not consider the proposal to fall under Part 3A of the Act.	The Minister is satisfied that the proposal can be assessed under Part 3A of the Act.
Council support additional FSR on the site subject to a development that does not exceed the height of the existing building on site. This approach is consistent with other sites Council has recently dealt with.	The Department considers that the proposal fails to provide a sufficient transition of bulk and scale across the site and the additional height above the former Hakoah Club extending much of the dept of the site will have a detrimental visual impact on the surrounding area. It has therefore been recommended that the rear (O'Brien Street) setback to Level 7 be increased to lessen any detrimental impact and improve the transition of building bulk and scale across the site.
The proposal results in a net loss of dwellings on site, contrary to the draft East Subregional Strategy.	The proposal contributes towards the dwelling targets of the draft East Subregional Strategy.
The proposal will have a detrimental impact on the residential nature of O'Brien Street to the rear.	Noted. Additional rear setbacks to the podium and tower elements as proposed in the PPR have partially resolved this issue. The Department's recommended condition to increase the rear (O'Brien Street) setback to Level 7 will minimise any additional impact on the residential nature of O'Brien Street by providing an adequate transition of building height, bulk and scale to the lower densities of O'Brien Street. The Department has also recommended that Level 2 of the western podium 'wing' be setback a further 3.4m from the O'Brien Street boundary to ensure a more consistent frontage to O'Brien Street.
The proposal is in excess of development standards for height and FSR	The Department considers that on merit, the proposal (as modified by conditions relating to increased setbacks) will result in a built form that relates to both Hall and O'Brien Street, which is considered to have a lesser visual impact than the existing buildings on site.
The proposal has fundamental inconsistencies	The PPR has included revised plans which indicate increased side and rear setbacks of the rear podium, to

<p>with the Waverley LEP 1996 and is contrary to a number of aims of the LEP, including the objectives of the 3(a) "Business General" and 2(c1) "Residential" zones. Concerns relate to the relationship with the residential nature of O'Brien Street.</p>	<p>reduce bulk and scale impacts on the residential nature of O'Brien Street. The Department has also recommended that Level 7 be modified (to increase the rear setback) will further minimise detrimental impacts on the surrounding residential nature of O'Brien Street. The Department is satisfied that the proposal is consistent with the relevant objectives of the 3(a) "Business General" zone.</p> <p>Further, an assessment has been made against cl. 32 - Development along zone boundaries of the LEP and considers that, with the Departments recommended condition relating to Level 7 and the increased side and rear setbacks as proposed in the PPR, the relationship between the subject site and the surrounding residential area of O'Brien Street will ensure that these zone objectives are met.</p>
<p>The proposal has fundamental inconsistencies with the Waverley DCP 2006 and fails to comply with the desired building envelope for this site resulting in a building that is not in keeping with the character of the area and compromises the integrity of Council's controls in terms of the future desired character of the Hall Street Local Village Centre.</p>	<p>The proposal complies with the future desired character of both Hall Street and O'Brien Street and adequate upper level setbacks have been provided to the podium levels on both frontages. It is considered that, subject to the Department's recommended modifications, any additional impact over the former Hakoah Club building will be minimised.</p> <p>The proposal is considered to adequately address the future desired character of Hall Street, and provide a rear podium to O'Brien Street that is consistent with the anticipated scale of the 3(a) "Business General" zone whilst maintaining the amenity and appropriate transition into the surrounding 2(c1) "Residential" zone.</p> <p>In terms of visual amenity, the proposal represents an improvement over the existing collection of buildings, and will provide much needed tourist and residential accommodation in addition to retail, community and recreational facilities.</p>
<p>The Proponent's assessment of view loss is unsatisfactory. Council states that views will be disrupted by the proposal.</p>	<p>View loss was not raised as a key issue by residents during the exhibition of the EA. In any case, the Department requested a View Loss Analysis be submitted with the PPR and has provided an assessment of views in Section 7.3 of this report.</p>
<p>Proposal fails against a number of Planning Principles.</p>	<p>The Planning Principles addressed by Council are noted.</p>

Summary of Council Submission to the PPR	
Issue	Department Comment
<p>Council's previous objection to the proposal remains relevant.</p>	<p>Noted.</p>
<p>Proposal fails to provide an appropriate response to the draft East Subregional Strategy and SEPP 32 as it will result in a net loss of dwellings on site.</p>	<p>The Department considers that the proposal contributes towards the dwelling targets of the draft East Subregional Strategy, particularly when compared to the existing buildings on site.</p>

Bulk and scale of the podium and tower is excessive, does not provide a transition and impacts on surrounding properties and streetscape.	The Department has recommended additional rear setbacks of the western podium wing and modifications to Level 7 of the tower to minimise any additional impacts on surrounding occupiers and the streetscape, and to ensure a better transition of building bulk across the site.
Retail/recreational GFA has been reduced thus reducing the public benefit	It is acknowledged that the retail/recreational GFA has been reduced, however the Department considers the proposal continues to provide a number of public benefits, including tourist accommodation, housing, retail, recreational, community room, through-site link, and improved visual impact over the existing situation.
Roof terrace has been created on south eastern boundary at the rear impacting upon No. 8 O'Brien Street	The Department has recommended a condition be included which restricts a portion of this terrace to be non-trafficable, reducing any amenity impact on No. 8 O'Brien Street.
The PPR includes a new western wing, introducing new bulk impacts to No. 81 Hall Street	The Department considers that the increased height of the western 'wing' is an appropriate addition to the proposal on the western side of the site and that any impacts to adjacent properties within the 3(a) "Business General" zone are reasonable. Notwithstanding, the Department has recommended conditions be included requiring an additional rear setback to Level 2 (to O'Brien Street) and punctuation of the north western (side) elevation to reduce any massing impact on the occupiers of No. 81 Hall Street.
The PPR includes changes that should have been notified	The Department has placed a copy of all PPR documentation on its website in accordance with the Act.
The PPR includes only minor amendments to the bulk affecting No. 8 O'Brien Street	The PPR proposes additional rear setbacks to the podium and tower elements, and additional eastern side setbacks at podium levels to reduce any impact of the proposal on No. 8 O'Brien Street. These setbacks, together with the Department's recommended modification to Level 7, will lessen any bulk impact to No. 8 O'Brien Street.
The Applicant has failed to properly consider view impacts.	The Department has considered Council's comments on view loss, and the Proponent's View Loss Analysis in Section 7.3 of this report.
The applicant's reliance on 'overdeveloped sites' in Waverley does not take into account site specific controls in each case	The Department has based its assessment on the proposal against existing buildings on site. Other 'overdeveloped sites' in the Waverley LGA have not been taken into consideration.
The PPR fails to consider the Local Village Controls	<p>It is considered that, subject to the Department's recommended modifications, any additional impact over the former Hakoah Club building will be minimised.</p> <p>The proposal is considered to adequately address the future desired character of Hall Street, and provide a rear podium to O'Brien Street that is consistent with the anticipated scale of the 3(a) "Business General" zone whilst maintaining the amenity and appropriate transition into the surrounding 2(c1) "Residential" zone.</p>

	In terms of visual amenity, the proposal represents an improvement over the existing collection of buildings, and will provide much needed tourist and residential accommodation in addition to retail, community and recreational facilities.
The applicant has not provided a consideration of different options in terms of the transition of building bulk, or the redistribution of the GFA of the additional storey to other parts of the site.	The Department is satisfied that with the increased setbacks and redistributed building bulk as proposed by the PPR, and the recommended condition to modify Level 7, the proposal represents an appropriate development of the site.
Shadow diagrams indicate that the relocation of building bulk has increased impacts to properties that were previously unaffected	It is acknowledged that minimal additional overshadowing of No. 81 Hall Street until 11am in mid winter will occur as a result of the redistribution of GFA however this property will receive direct sunlight from 11am onwards. No other significant additional overshadowing impacts as a result of the new western podium wing have been identified and as such, potential impacts to this property are considered minimal. See Section 7.2.1 for a discussion on Overshadowing and Solar Access

Summary of Public Submissions to the EA		
Issue	%*	Department Comment
Height & FSR	78	The Department considers the resultant built form to be an improvement over the current situation in terms of its visual impact. With additional rear setbacks of the tower and podium, modification of Level 7 (to increase the rear setback) and increased rear setback to Level 2 of the western podium 'wing' as recommended by the Department, it is considered that the proposal will minimise any additional impacts on surrounding residents, particularly those in the residential zone adjacent to the rear along O'Brien Street.
Traffic	77	Concerns raised related to the impact the proposed development would have on the local road network. The Traffic Report submitted with the application concludes that the local road network will be able to cater for the increase in vehicular movements. Further, the RTA raised no objection to the proposal in this regard.
Not in keeping with the village character/ streetscape	74	The proposal, with its 2 distinct built forms allows the development to present a pedestrian scale to both Hall Street and O'Brien Street, in keeping with the future desired character of the area. In addition, the Department's recommended increased rear setbacks and modification of Level 7 will allow for an appropriate transition of building bulk and scale to the lower densities of O'Brien Street to the rear.
Overdevelopment	74	The proposal replaces an existing series of buildings, with the former Hakoah Club building being the most visually intrusive. The proposal is considered to present an improvement to both streetscapes, whilst concentrating the bulk and scale to the south eastern side of the site, similar to the existing situation.

Parking	72	Concerns raised related to the additional car parking demand that would be generated by the development and the resultant impact on the already congested streets. The proposal provides for 184 car parking spaces, which is 7 spaces greater than Council's maximum requirements. The Department does not consider these additional spaces unreasonable in this case.
Proposal will set a precedent	67	The proposal replaces an existing building that is visually prominent and exceeds local height controls. Height and bulk is concentrated on the eastern half of the site, which is where the former Hakoah Club is located. The Department considers that the unique site constraints and existing buildings have shaped a suitable built form in this case. Further, the Department's recommended condition to modify Level 7 will ensure an improved transition of building bulk to the lower densities of O'Brien Street, particularly compared to the existing situation.
A number of other issues were raised such as: <ul style="list-style-type: none"> • Method of consultation of the EA; • Loss of privacy; • Loss of cultural landmark; • Property value and cost of living; • Additional commercial uses; • Loss of light; • Construction impacts; • Safety of children; • Bondi should remain free from hotels; • Design; and, • Do not need new buildings to attract people to Bondi 	N/A	The additional issues raised have been considered in this report, such as loss of light, design, method of consultation and loss of privacy. Others have been addressed by way of conditions of approval (construction impact and safety). Matters such as additional commercial uses and property value are not material planning considerations.

* A percentage representing the number of times the issue was raised in individual submissions