

DA NO: DA-2022/393

ADDRESS: 3 ELLIS STREET, CHATSWOOD NSW 2067.

PROPOSAL: DEMOLITION OF EXISTING RESIDENTIAL UNIT BUILDING, CONSTRUCTION OF A 14 STOREY SHOP TOP HOUSING DEVELOPMENT COMPRISING 3 STOREYS OF RETAIL/COMMERCIAL USE, COMMUNAL FACILITIES AND 4 LEVELS OF BASEMENT CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT
5. OFFICER'S CLAUSE 4.6 ASSESSMENT – HEIGHT
6. SECTION 4.15 (79C) ASSESSMENT
7. SCHEDULE OF CONDITIONS
8. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER

AUTHOR: AKSHAY BISHNOI – SENIOR ASSESSMENT PLANNER

REPORT DATE: 19 APRIL 2024

MEETING DATE FOR PUBLIC MEETING 30 APRIL 2024

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) of Development Application DA-2022/393 for demolition of existing residential unit building, construction of a 14 storey shop top housing development comprising 3 storeys of retail/commercial use, communal facilities and 4 levels of basement car parking, landscaping and associated works - The application is identified as nominated integrated development requiring approval from Water NSW pursuant to s90 of the Water Management Act 2000 at 3 Ellis Street, Chatswood. A General Terms of Approval (GTA) has been received from Water NSW.

The application is required to be referred to the WLPP for determination because the development is categorised as Sensitive Development as it is a type that State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies. A voluntary planning agreement was undertaken and received more than 10 submissions.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Support the variation to the development standard in *Willoughby Local Environmental Plan 2012* Clause 4.3 Height of buildings under clause 4.6 (as assessed in Attachment 5) for the following reasons:

2.1.1 The applicant's written request has demonstrated that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard, and

2.1.2 The proposal is consistent with the objectives of the development standard for height and the objectives of the zone, and therefore it is reasonable to conclude it is in the public interest to allow the development.

2.2 Approve Development Application DA-2022/393 for Demolition of existing residential unit building, construction of a 14 storey shop top housing development comprising 3 storeys of retail/commercial use, communal facilities and 4 levels of basement car parking, landscaping and associated works at 3 Ellis Street Chatswood, subject to conditions contained in Attachment 7, for the following reasons:

2.2.1 The proposed development achieves the desired outcomes and objectives of Chapter 4 of *State Environmental Planning Policy – (Housing) 2021*.

2.2.2 The proposed development does not conflict with the desired outcomes and objectives of the development standards contained in the *Willoughby Local Environmental Plan 2012 (WLEP)*, to the extent that the provisions apply.

2.2.3 The proposal is consistent with the objectives of the development controls contained in *WDCP 2006*.

3. BACKGROUND

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

A planning proposal to rezone the site for uplift in accordance with the Chatswood CBD Strategy 2036 was approved and gazetted on 21 June 2022. The planning proposal included the following key amendments to the *Willoughby Local environmental Plan 2012 (WLEP 2012)*:

- Rezone the site from r4 High Density residential to B4 Mixed Use
- Maximum FSR of 4.5:1
- Height of Buildings 44m
- Minimum lot size of 800m² for Shop top housing or mixed used development
- 17% of the building's GFA to be used for non-residential purpose.
- Active Street Frontage to include Ellis Street Frontage
- 4% of the residential floor space as affordable housing units

On 11 May 2022, a VPA was executed, involving a \$1,162,929 monetary contribution towards Council's Community Infrastructure Contributions Scheme.

A pre-lodgement meeting was held on 19 October 2022.

The application was lodged on 21 December 2022.

The application was notified from 16 January to 7 February 2023.

On 10 February 2023, a request for additional information was sent to the applicant in respect to:

- Environmental Health Concerns,
- Stormwater Water Management,
- Vehicle access and Parking,
- Sydney Trains and Sydney Metros requests for further information dated 07/02/2023 and 10/02/2023 respectively.

On 2 March 2023, the applicant requested extension of time to provide a response to the Council's RFI.

On 6 May 2023, the applicant formally responded to Council's RFI and provided revised architectural plans and other relevant documents.

On 20 July 2023, following the review of the revised material, a further request for additional information was sent to the applicant in respect to:

- Integrated Development
- Sydney Trains request for further information
- Waste management and Loading/removalist Areas
 - Compliance with *WDCP*
 - All loading and unloading of vehicles, including the waste vehicle to occur on-site.
 - All vehicles to enter and leave the site in forward direction
 - Council do not support collection of residential waste by private contractors
 - Residential waste generation and number of bins required
- Combined communal open space/ public rights of Way
- Preliminary art strategy
- Dedication of units for the purpose of Affordable Housing
- Substation requirement
- Environmental Health Concerns
- Engineering concerns:
 - Access and Parking
 - Stormwater
- General urban design commentary

On 04 August 2023, Water NSW requested additional information.

On 08 August 2023, the applicant responded:

- Acknowledging the application being Integrated Development, requiring approval from Water NSW under Water Management Act 2000 and relevant additional fees were paid.
- The applicant responded with a package addressing Sydney Trains concerns.
- Waste management:

- Due to underlying physical constraints of the site, a council waste vehicle cannot be accommodated on-site.
- Proposed kerbside collection of the residential waste using 240Liters bins
- Residential Bulky Waste will be managed by private contractor
- Justified the management of combined use communal open space/ public rights of way
- A revised preliminary art strategy was provided.
- Revised architectural plans include an affordable housing unit on Level 2 floor plan.
- A letter from Level 3 –ASP was provided, confirming that the development will not need an onsite substation kiosk.
- Responded with additional information with regards to Engineering and Environmental Health concerns

On 16 August 2023, the revised proposal was re-notified and advertised as an Integrated Development for 28 days, in accordance with Schedule 1 of the EP&A Act 1979.

On 13 September 2023, the applicant was advised:

- Council acknowledged that the site is due to the size, a Council vehicle cannot be accommodated in the basement and advised that a bin holding room for the bins and bulky goods waste as a potential solution.
- The site does not have enough frontage for bins to be presented to the kerbside for collection.
- Residential waste collection service provider is Council.
- *WDCP 2023* requires increased number of bins.

On 28 September 2023, the applicant responded:

- The applicant did not agree to a kerbside bin holding room, continue to propose kerbside collection of 240Litres bins.
- Bulky goods waste service provider to be private contractor
- The application was made prior to the adoption of *WDCP 2023*.

On 15 November 2023, Council advised that they do not agree the above and requested compliance with the *WDCP 2023*, and also suggested a bin hold room, for both bins and bulky goods waste to be provided as a potential solution to the waste collection issue.

Following a series of back and forth emails, and verbal discussion, on 22 February 2024, the applicant requested Council to support:

- *twice-weekly kerbside collection of residential waste so that the development meets the DCP 2023 waste generation rates (noting the limited kerbside length available);*
- *Allowance for a basement waste storage facility managed under a site management plan to bring waste bins to the kerbside twice weekly according to the waste collection schedule of Councils contractors*

On 15 March 2024, Council responded with:

Council can consider supporting twice-weekly kerbside collection of residential waste; however, it would have to be with 660L bins, as Council do not provide twice-weekly collection for 240L bins.

The following information was then requested to consider 660L twice weekly kerbside collection of residential waste:

- *Kerbside presentation of bins without holding room(s) can be considered, with an agreement that onsite collection may be required in the future, subject to a suitable Council vehicle size being available, and with indemnity for Council in the event of any incident, injury or death that may occur from placement of the bulk bins and bulky waste at the kerbside^[1]:*
 - *Bulk bins (660L) with a suitable nominated area provided, rear loader collection.*
 - *Bulky waste area with a suitable nominated area provided, rear loader collection.*
- *Provide an updated kerbside plan to reflect the above. The plan must include all infrastructure (substation), amenity and landscaping (Street Trees) that is present within that space.*
- *Provide a clear plan for the safe movement of bins and bulky waste from the internal storage areas to the kerbside by the building manager (not by Council). This may require a bin tug and/or cart with trailer.*
- *Use the NSROC generation rates (WDCP 2023) and bin storage requirements for recycling and bulky waste. Garden waste may be applied as per the WDCP 2006. General waste is the same outcome in either DCPs (3x660L bins twice per week).*
- *Show where the council collection trucks will stop (10.5m long rear loader), plus a 2m clearance at the rear and 0.5m clearance either side for the occupants to exit. This should be detailed in the WMP. Please note this this arrangement will also require approval from the Traffic Committee.*

^[1] Public safety is partly why a holding room and onsite collection should be provided for bulk bins along with other items such as:

- Safe and efficient movement and collection of bins by Council's contractor including on a flat unhindered floor surface with unimpeded clearances away from public use and in a controlled onsite environment.
- Environmental controls and tidiness (odour, vermin, leachate and litter etc).

Other outstanding issues to be addressed

- Bulky waste: the waste plan does not demonstrate any kerbside collection location for bulky waste. It may be a large volume, the *WDCP 2023* requires 10m² of internal bulky waste storage and it would be logical that the same space is available at the kerbside given it will be the same material.
- Resident disposal of waste: The WMP does not sufficiently detail the waste carting routes for residents to their internal storage areas for bulky waste and organic waste to ensure that it is safe and efficient.
- Garbage chute and carousel: For general waste bins under a chute system, there must be enough capacity for 3-days of waste generation. Please provide sufficient detail:
 - If 660L bins, this would require a garbage bin linear track system (or alternative solution).
- Waste storage area conditions: For the residential bin storage area, bulky waste storage area and commercial bin storage area, the development must comply with the waste storage area condition requirements. The WMP should provide more detail for items including (but not limited to):
 - Size of bin storage area should be detailed separately to the area required for any equipment to ensure there is sufficient space;
 - Layout must not allow for stacking of bins two or more deep;
 - Aisle space of at least 1.5m and doorways must be at least 2.5m wide;
 - Locked / secured bin room and bulky waste storage area; and
 - Provision of hot and cold water (detailed on architectural plans).

On 18 March 2024, the applicant responded to the Council request with revised waste management plan addressing the following:

- Garbage chute and carousel – use of a linear track system for 660L MGBs;
- Doors are 2.5m wide with 1.5m aisle space;
- Locked / secured bin room and bulky waste storage area;
- Provision of hot and cold water; and
- Layout must not allow for stacking of bins two or more deep.

However, the following issues were not addressed:

- Bulky waste: Residential bulky waste collection by a private contractor is not supported.
- Collection frequency of waste (other than general waste): Council's kerbside service is only available for once weekly collection for recycling and organics waste.
- Resident disposal of waste: The WMP did not sufficiently detail the waste carting routes for residents to their internal storage areas for bulky waste and organic waste to ensure that it is safe and efficient.
- Waste storage area conditions: For the residential bin storage area, bulky waste storage area and commercial bin storage area, the development must comply with the waste storage area condition requirements. The WMP should provide more detail for the size of bin storage areas which should be detailed separately to the area required for any equipment to ensure there is sufficient space.

The above issues are unresolved to date.

4. DESCRIPTION OF PROPOSAL

The proposal, as lodged, is for demolition of existing buildings on the site and construction of a 14 storey mixed use development with 4 levels of basement parking at 3 Ellis Street, Chatswood.

The development application proposes the following:

- Demolition of existing buildings on the site;
- Construction of a new 14 storey mixed use development containing:
 - Retail/ commercial podium, with ground floor retail and commercial uses on Level 1 and part Level 2.
 - 28 residential units comprising 15x 2- bedroom units and 13x 3+ bedroom units.
- Excavation to accommodate four (4) levels of basement car parking comprising:
 - 42 car spaces, including 5 accessible spaces;
 - 2 motorbike spaces;
 - Loading bay for SRV on Basement Level 1;
 - 28 Bicycle spaces; and
 - End of trip facilities

As discussed above, the proposal has undergone a couple of amendments since its lodgement. The amendment were primarily related to the internal reconfiguration of the floor layouts only, with no changes to the maximum building height and Gross Floor Area. The proposal, as amended, includes the following numerical changes compared to the originally lodged proposal:

- 28 residential units comprising:

- 14x 2 Bedroom units;
- 11x 3 bedroom units; and
- 3x 4 Bedroom units

- Nominated the 4 bedroom unit on Level 2 for Affordable Housing;
- Number of parking spaces reduced to 34 spaces including 5 accessible spaces;
- 3 motorbike spaces;
- Bicycle spaces:
 - 13 spaces for residential; and
 - 4 spaces for retail/commercial



(Left) The existing site.



(Right): A photomontage of the subject proposal on completion

5. DISCUSSION

The controls and development statistics that apply to the subject land are provided in **Attachment 2**, including an assessment under State Environmental Planning Policy (Housing) 2021 – Chapter 4, the Apartment Design Guidelines, *Willoughby LEP 2012*, and *Willoughby Development Control Plan 2006*.

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

A detailed assessment of the Clause 4.6 is provided in **Attachment 5**.

Key Issues

Amendments to *WLEP* and new *WDCP 2023*

On 30 June 2023, *WLEP 2012* Amendment 34 came into effect. Notionally, *WDCP 2023* also commenced in July 2023, but subsequently endorsed correctly on 3 October 2023.

However, clause 1.8A of *WLEP 2012* states that amendments to *WLEP 2012* made by *WLEP 2012* (Amendment No. 34) do not apply to applications made but not finally

determined before the commencement of Amendment 34. The provisions of *WLEP 2012* Amendment 34 are to be considered as a proposed (draft exhibited) instrument in accordance with section 4.15(1)(a)(ii) of the Act.

Height

The site is subject to a maximum height limit of 44m. The proposal is for a maximum height of 44.5 (parapet), being a variation of 0.5m, or 1.14%. A detailed assessment is provided in Attachment 5 which concludes the variation is acceptable in the circumstances of the case.

Waste management and collection

According to *WDCP 2006*, all loading and unloading of vehicles, including the waste vehicle, must occur on-site, with vehicles able to enter and leave the site in a forward direction. Access to the basement must be provided for all vehicles up to and including Council's waste vehicle, which is similar to a MRV. While the proposal includes on-site waste collection and loading unloading areas, it proposes basement access for an SRV vehicle and use of a private waste contractor for residential waste. The applicant indicated that the Council's waste vehicle being similar to a MRV cannot be accommodated in the basement due to the size constraints of the allotment.

The applicant was advised that Council does not use SRV-sized vehicles for domestic waste collection, and Council is legally obligated to provide residential waste services. Therefore, the support for a private waste contractor for residential waste collection, including bulky goods waste, cannot be granted.

In response, the applicant proposed kerbside collection of residential waste using 240-litre bins. However, this proposal was not supported by the Council due to the chute system in the proposal, which requires bulk bins at the chute's termination. Additionally, given the number of 240-liter bins required for the development, the site lacks sufficient frontage to accommodate kerbside presentation of the bins.

Following a detailed assessment of the basement and a report from the applicant's traffic consultant, the Council acknowledged that its waste truck might not fit in the basement due to minimum vertical clearance and vehicle ramp length requirements. Despite the *DCP* requirement for basement access for Council's waste vehicles, considering the size and width of the site, an exception was suggested. It proposed that removalist vehicles/waste collection occur at the ground floor, allowing vehicles to enter and leave the site in a forward direction with no additional vehicular crossing proposed. A turntable on the ground floor was also suggested as a potential option.

The applicant did not consider the Council's suggestion and continued to propose kerbside collection of residential waste. Council also suggested a kerbside holding room as a potential option, which was also not considered by the applicant.

Following a series of back and forth emails, and verbal discussion, on 22 February 2024, the applicant requested Council to support:

- *twice-weekly kerbside collection of residential waste so that the development meets the DCP 2023 waste generation rates (noting the limited kerbside length available);*
- *Allowance for a basement waste storage facility managed under a site management plan to bring waste bins to the kerbside twice weekly according to the waste collection schedule of Councils contractors*

On 15 March 2024, Council responded:

Council can consider supporting twice-weekly kerbside collection of residential waste; however, it would have to be with 660L bins, as Council do not provide twice-weekly collection for 240L bins.

To consider the 660-liter twice-weekly kerbside collection of residential waste, the following information was requested:

- *Kerbside presentation of bins without holding room(s) can be considered, with an agreement that onsite collection may be required in the future, subject to a suitable Council vehicle size being available, and with indemnity for Council in the event of any incident, injury or death that may occur from placement of the bulk bins and bulky waste at the kerbside^[1]:*
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Other outstanding issues to be addressed

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 - Locked / secured bin room and bulky waste storage area; and
 - Provision of hot and cold water (detailed on architectural plans).

On 18 March 2024, the applicant responded to the Council's request with revised waste management plan addressing the following:

- Garbage chute and carousel – use of a linear track system for 660L MGBs;
- Doors are 2.5m wide with 1.5m aisle space;
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- Provision of hot and cold water; and
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However, the following issues were not addressed:

- Bulky waste: Residential bulky waste collection by a private contractor is not supported.
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To date, the above issues are unresolved. Therefore, to ensure compliance with Council's waste management and collection procedures, special conditions of consent have been recommended requiring further information to be submitted to Council for approval prior to the issue of a CC.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/pages/xc.track/SearchApplication.aspx?id=525465>

6. CONCLUSION

The Development Application DA-2022/393 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 7.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO



The site is described as SP2715, known as No 3 Ellis, Chatswood. The site has an existing three-storey residential flat building comprising 9 units. The site comprises of one individual lot located on the northern side of Ellis Street and has an area of approximately 808m². The topography of the site is relatively flat, with no significant natural features affecting development potential.

The locality consists of a mix of medium to high density residential buildings, commercial and retail spaces. The site is in close proximity to Chatswood train station and major arterial roads such as the Pacific Highway and Mowbray Road. The site is also surrounded by a number of recreational facilities in the area, with Chatswood oval being to the east, across the railway tracks, and Chatswood Croquet Club and Chatswood Bowls Club approximately 200m to the south.

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

Willoughby Local Environmental Plan 2012 (pre amendment 34) Zoning: HOB: FSR:	B4 Mixed-Use 44M 4.5:1
Existing Use Rights	No
Additional Permitted Use	Yes, Shop-top housing with at least 17% of the building's GFA used for non-residential purposes.
Conservation area	No
Aboriginal Heritage	No
Heritage Item	No
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	Yes
Adjacent to classified road	Yes, 100m to the west is the Pacific Highway
Road/lane widening	No
BASIX SEPP	Yes
Infrastructure SEPP - Rail	Yes, adjacent to Sydney Metro and Sydney Trains infrastructure
Infrastructure SEPP – Road	No
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	Yes
Other relevant SEPPS	<i>SEPP (Resilience and Hazards) 2021</i> <i>SEPP (Transport & Infrastructure) 2021</i> <i>SEPP (Biodiversity and Conservation) 2021,</i> <i>SEPP (Housing) 2021</i>
Relevant policies and resolutions	WDCP 2006 and 2023

State Environment Planning Policy (Resilience and Hazards) 2021

Chapter 5 of *Resilience and Hazards SEPP* aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 4.6 requires a consent authority to consider whether the land is contaminated and if it is suitable or can be remediated to be made suitable for the proposed development, prior to the granting of development consent.

The application accompanies a preliminary site investigation report prepared by Douglas Partners, Ref no. 91234.00.R.002, Dated 8 November 2022. The report concludes that the subject site is considered suitable for the proposed use, subject to unexpected finds protocol and further testing of soil following demolition works. Council's Environmental Health section has reviewed the report and raised no issues with the proposed development subject to conditions consent.

The application is therefore acceptable with regard to the relevant consideration of *SEPP (Resilience and Hazards) 2021*.

State Environmental Planning Policy (Transport and Infrastructure) 2021 – Chapter 2 (Infrastructure)

The subject site is adjacent to rail corridors. Sydney Trains and Sydney Metro infrastructure is in proximity to the site, and as such the proposal must be considered under the relevant provisions of the *SEPP*. Specifically, the following clauses have been considered during the assessment of this proposal.

2.99 Excavation in, above, below or adjacent to rail corridors

(1) *This section applies to development (other than development to which section 2.101 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land—*

- (a) *within, below or above a rail corridor, or*
- (b) *within 25m (measured horizontally) of a rail corridor, or*
- (c) *within 25m (measured horizontally) of the ground directly below a rail corridor, or*
- (d) *within 25m (measured horizontally) of the ground directly above an underground rail corridor.*

(2) *Before determining a development application for development to which this section applies, the consent authority must—*

- (a) *within 7 days after the application is made, give written notice of the application to the rail authority for the rail corridor, and*
- (b) *take into consideration—*

- (i) *any response to the notice that is received within 21 days after the notice is given, and*
- (ii) *any guidelines issued by the Planning Secretary for the purposes of this section and published in the Gazette.*

(3) *Subject to subsection (5), the consent authority must not grant consent to development to which this section applies without the concurrence of the rail authority for the rail corridor to which the development application relates.*

(4) *In deciding whether to provide concurrence, the rail authority must take into account—*

- (a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on—*
 - (i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - (ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- (b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

(5) *The consent authority may grant consent to development to which this section applies without the concurrence of the rail authority concerned if—*

- (a) *the rail corridor is owned by or vested in ARTC or is the subject of an ARTC arrangement, or*
- (b) *in any other case, 21 days have passed since the consent authority gave notice under subsection (2)(a) and the rail authority has not granted or refused to grant concurrence.*

Comment: The proposal involves excavation within in 25m of a rail corridor, which extends 2m below the existing ground level. Both Sydney Trains and Sydney Metro have reviewed the application and granted concurrence, subject to conditions of consent. The conditions of consent from both the agencies form part of the recommended conditions of consent.

2.100 Impact of rail noise or vibration on non-rail development

- (1) *This section applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration—*
 - (a) *Residential accommodation,*
 - (b) *a place of public worship,*
 - (c) *a hospital,*
 - (d) *an educational establishment or child care centre.*
- (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 Planning 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 building—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) *anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Comment: In response to the above clause the applicant submitted an Acoustic Report prepared by Renzo Tonin & Associates, Document TM802-01F03 Acoustic Assessment (r0), 8 November 2022. The report recommended a variety of acoustic treatments to comply with the SEPP. The acoustic assessment was reviewed by Council's Environmental Health Department and found to be partly satisfactory, given the report was prepared during Covid restriction. Hence, requested a revised acoustic report though conditions of consent. Additionally, conditions of consent have been included, that ensure the recommendations of the acoustic report will be implemented during the construction.

Given the above it is considered that the subject proposal meets the relevant objectives and regulations of Clause 2.100, subject to conditions of consent.

State Environmental Planning Policy (Housing) 2021

The SEPP 65 (Design Quality of Residential apartment Development) 2002 was repealed by sec 3 of the [State Environmental Planning Policy amendment \(Housing\) 2023](#) with effect from 14/12/2023. However, this did not specify the application of the Apartment Design Guide and there was no savings or transitional provisions preserving the operation of SEPP 65, for pending applications, beyond its repeal on 14/12/2023.

On 15 March 2024, the NSW Government published the *State Environmental Planning Policy Amendment (Housing) 2024*. This document revised the transitional provision set out in section 8(1) of Schedule 7A of the *Housing SEPP*. Which clarified that the new Chapter 4

State Environmental Planning Policy (Housing) 2021, would apply to any application or modification application, including those lodged before 14/12/2023. This provision is specified in Subclause (2A), Clause 8 of Schedule 7A of the *Housing SEPP*.

The proposal therefore, has been assessed under Chapter 4 of the *SEPP (Housing) 2021*.

State Environmental Planning Policy (Housing) 2021 – Chapter 4: Design Quality of Residential Apartment Development		
145	<p><i>Referral to design review panel for development applications:</i></p> <p>(1) <i>This section applies to a development application for residential apartment development, other than State significant development.</i></p> <p>(2) <i>Before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development.</i></p> <p>(3) <i>This section does not apply if—</i></p> <p style="padding-left: 20px;"><i>(a) a design review panel has not been constituted for the local government area in which the development will be carried out,</i></p> <p style="padding-left: 40px;"><i>or</i></p> <p style="padding-left: 20px;"><i>(b) a competitive design process has been held.</i></p> <p>(4) <i>In this section—</i></p> <p style="padding-left: 20px;"><i>competitive design process means a design competition held in accordance with the Design Competition Guidelines published by the Department in September 2023.</i></p>	<p>Pursuant to subclause (3), this clause does not apply to the development. A submitted design has been subject to a design competition held on 18 June 2022 with a supplementary presentation held on 09 August 2022. Council' Urban designer has reviewed the design subject to this application against the jury's recommendations and raised no issues.</p>
147	<p><i>Determination of development applications and modification applications for residential apartment development:</i></p> <p>(1) <i>Development consent must not be granted to residential apartment development, and a development consent for residential apartment development must not be modified, unless the consent authority has considered the following—</i></p> <p style="padding-left: 20px;"><i>(a) the quality of the design of</i></p>	Noted.

State Environmental Planning Policy (Housing) 2021 – Chapter 4: Design Quality of Residential Apartment Development		
	<p><i>the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,</i></p> <p><i>(b) the Apartment Design Guide,</i></p> <p><i>(c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.</i></p> <p><i>(2) The 14-day period referred to in subsection (1)(c) does not increase or otherwise affect the period in which a development application or modification application must be determined by the consent authority.</i></p> <p><i><u>(3) To avoid doubt, subsection (1)(b) does not require a consent authority to require compliance with design criteria specified in the Apartment Design Guide.</u></i></p> <p><i>(4) Subsection (1)(c) does not apply to State significant development.</i></p>	
148	<p>Standards that cannot be used to refuse consent:</p> <ul style="list-style-type: none"> • Parking provision that complies with ADG, • Internal area of apartments that comply with ADG, • Ceiling heights that comply with ADG. 	Noted. Assessment under <i>WDCP 2006</i> and <i>WDCP 2023</i> reflects this limitation.
149	<p><i>DCPs cannot be inconsistent with Apartment Design Guide (ADG)</i></p> <p>Provisions in <i>DCP</i> of no effect in respect to:</p> <ul style="list-style-type: none"> • Visual privacy • Solar and daylight access • Common circulation and spaces • Apartment size and layout • Ceiling heights • Private open space and balconies • Natural ventilation • Storage 	Noted. Assessment under <i>WDCP 2006</i> and <i>WDCP 2023</i> reflects this limitation.
Schedule 9 – Design quality principles		
1	Context and neighbourhood	The height and scale is reasonably consistent


State Environmental Planning Policy (Housing) 2021 – Chapter 4: Design Quality of Residential Apartment Development		
	character	with adjoining development – see assessment of clause 4.6 written request in Attachment 5.
2	Built Form and Scale	The proposal responds appropriately for the desired future character, is satisfactorily modulated in form, comprised of suitable materials, defines the public domain and provides good internal residential amenity.
3	Density	<p>The proposal has a floor space ratio of 4.5:1, which complies with the development standard. The quantum of the development is dissected into high amenity residential units that serve to meet the housing demand. The non-residential floor space suitably addresses Chatswood' identity as a Strategic Centre within the Sydney metropolitan area with an economic role and contributes to achieve the jobs target in the North District Plan.</p> <p>The unit breakdown in the proposal is:</p> <p>14 x 2 bed (50%) 11 x 3 bed (39%) 3 x 4 bed (11%) Total = 28 units</p> <p>The portion of 3 plus bedroom units is representative of an emerging market who seek to live in larger units to cater for changing lifestyle and needs, downsizers who wish to welcome visitors and family and entertain. It complies with the ADG requirements and its objectives. The density of the proposal is satisfactory.</p>
4	Sustainability	The applicant advises that the proposal incorporates a number of principles of sustainability, including natural ventilation to the majority of apartments, maximizing direct sun to apartments whilst utilising shading devices where required and landscaping throughout the proposal. BASIX targets are achieved.
5	Landscape	Deep soil area achieves 7.5% of the site, which complies with the ADG requirement, and the landscaped area exceed the minimum 20% of the site area, required under the <i>WDCP</i> . This will allow for an acceptable vegetation and landscape outcome.
6	Amenity	The proposed design will provide adequate levels of internal amenity for future occupants with good orientation and cross flow to units. Room sizes are in accordance, and sometimes greater, than ADG recommended room sizes and compliant amount of storage has been provided, split between car park and apartment area.

State Environmental Planning Policy (Housing) 2021 – Chapter 4: Design Quality of Residential Apartment Development		
		The proposed development will provide setbacks within development that provide suitable separation between the proposed units catering for their sunlight and privacy needs. Accessible path of travel is provided for all floors of residential areas.
7	Safety	<p>The design of the development provides casual surveillance to the street frontage. Suitable street and ground level lighting will be provided within the development to maximise surveillance opportunities at night.</p> <p>The basement car park will have intercom system and security doors restricting access to resident and visitor parking spaces and suitable lighting will be provided within the basement.</p> <p>Additionally, the proposal was referred to NSW Police for comments, who raised not issues subject to recommending design treatment options required in line with Crime Prevention Through Environmental Design (CPTED) principles.</p>
8	Housing Diversity and Social Interaction	Development offers good mix of apartment types. The size of apartments are well in excess of the minimum size requirements to enhance the enjoyment and practicality for occupants. The number of 3-bedrooms units caters for families or downsizers.
9	Aesthetics	The proposal is considered to be satisfactory with regards to this principle as it achieves architectural excellence by the use of balanced proportions, setbacks, variety and quality of materials and integrated landscaping. The proposal is supported by Council’s Urban designer as noted above in this report.

Apartment Design Guidelines

Required	Proposed	Complies
PART 02 DEVELOPING THE CONTROLS		
2A Primary Controls		
Primary development controls are the key planning tool used to manage the scale of development so that it relates to the context and desired future character of than area and manages impacts on surrounding development	<p>The primary development controls of the development are discussed in detail below.</p> <p>Generally, the proposed development is well suited to the location and provides a good design outcome.</p>	Yes

2B Building Envelope		
Establishes the appropriate scale of the development including the allowable bulk, height and location of a development on a site.	<p>The <i>Willoughby LEP 2012</i> and <i>Willoughby DCP 2006</i> outline the height and density controls for the site, as well building envelope controls specifically outlined for the subject site.</p> <p>The proposal exceeds the height limit contained in <i>Willoughby LEP 2012</i>, however, this non-compliance is assessed in this report, in conjunction with the applicant's written request to vary the height limit, and concludes that the proposal achieves compliance with the objectives of the height and floor space ration standards to ensure appropriate bulk, scale and building envelope.</p>	Yes
2C Building Height		
Where a floor space ratio (FSR) is defined, test height controls against it to ensure a good fit	<i>Willoughby LEP 2012</i> sets height controls consistent with the FSR controls in the <i>LEP</i> . The proposed minor variation to the height control is assessed later in this report but is considered to be able to be supported.	Yes
2D Floor space ratio		
The GFA should fit comfortably within the building envelope that also needs to account for building elements and service areas that are not included in the GFA definition and to allow for building articulation.	The FSR of 4.5:1 complies with the maximum permissible under <i>Willoughby LEP 2012</i> .	Yes
2E Building Depth		
Use a range of appropriate maximum apartment depths of 12-18 metres.	The Northern apartment on level 2, 10, 11 and 12 has cross-over width 19m exceeding the requirement by 1m. Notwithstanding the proposal is acceptable as majority of the apartments are cross-ventilated and receive adequate amount of solar access. The proposed development is designed to provide adequate level of amenity for the future occupants.	Considered satisfactory
2F Building Separation		
<p>Design and test building separation controls in plan and section. Minimum separation distances for buildings are:</p> <ul style="list-style-type: none"> - Up to 4 storeys approximately 6-12m - Up to 8 storeys approximately 9-18m 	Building separation in accordance with ADG is not achieved. However, the proposal complies with the site specific setback requirements contained in the <i>WDCP</i> , which requires the setbacks as per the extract below.	Considered satisfactory

<p>- 9 storeys and above approximately 12-24m</p> <p>Demonstrate that daylight access, urban form and visual and acoustic privacy are satisfactorily achieved.</p> <p>Aims</p> <ul style="list-style-type: none"> ensure that new development is scaled to support the desired future character with appropriate massing and spaces between buildings assist in providing residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook provide suitable areas for communal open spaces, deep soil zones and landscaping. 	 <p>Any potential privacy impacts are discussed further in this report under Part 3F-1 of the ADG</p>	
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2G Street Setbacks

<p>Street setbacks should be consistent with existing setback patterns in the street or setbacks that achieve the desired future character of the area. In conjunction with height controls, consider secondary upper level setbacks to:</p> <ul style="list-style-type: none"> Reinforce the desired scale of buildings at the street frontage; Minimise overshadowing of the street and other buildings. 	<p>The setbacks to the streets are generally in accordance with the streetscape and the <i>WDCP</i>.</p>	<p>Yes</p>
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2H Side and Rear Setbacks

<p>Setbacks vary according to the building's context and type.</p> <p>Consider zero side setbacks where the desired character is for a continuous street wall, such as in dense urban areas or main streets.</p>	<p>As discussed above, the proposal has been designed to comply with the site specific setback requirements contained in the <i>WDCP</i>.</p>	<p>Yes</p>
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Requirement	Proposed	Complies
PART 03: SITING THE DEVELOPMENT		
3A Site Analysis		
<p>Site analysis illustrates that design decisions have been based on opportunities and constraints of the site and their relationship to the surrounding</p>	<p>The Statement of Environmental Effects documents how the proposal responds to the site's location and local context in relation to</p>	<p>Yes</p>

Requirement	Proposed	Complies
context.	surrounding development, Chatswood CBD, Interchange and proximity to commercial centres. The proposal responds appropriately to the site and its surrounds.	
3B Orientation		
Building types and layouts respond to the streetscape and site while optimising solar access within the development. Overshadowing of neighbouring properties is minimised during winter.	The orientation of the proposed buildings and internal spaces in relation to the site and street is satisfactory. The orientation of the residential floor plates allows for majority of units receiving adequate solar access between 9 to 3pm.	Yes
3C Public Domain Interface		
Transition between private and public domain is achieved without compromising safety and security. Amenity of the public domain is retained and enhanced.	The interface of the development contributes to the quality and character of the street. The proposed through link requiring a 3m wide public right-of-way on the western side and a 2m wide right-of-way along the street frontage would positively contribute to the amenity of public domain.	Yes
3D Communal and Public Open Space		
An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. <ul style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June 	The ADG requires a minimum of 202.2m ² of communal open space, which is 25% of the site. The communal open space areas are arranged as follows: <u>communal open space</u> on Ground Floor: 113m ² Level 1: 97m ² Subtotal: 210m ² A total of 295m ² is provided, which equates to 25.9% of the site area and is adequate for the purposes of communal open space. The principal useable part of the communal open space is the provided at Level 1, where sufficient solar access is achieved.	Yes, the principal usable part of the communal open space achieves the minimum sun required.
3E Deep Soil Zone		
Deep soil zones provide for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality Maximum 7% site area to be deep soil; 15% desirable for sites above 1500m ² .	The site has a total area of 808.6m ² . The ADG seeks a minimum 7% of deep soil, which equates to 56.6m ² for this site. This proposal provides 60.7m ² of deep soils zones with a minimum width of 3m.	Yes
3F Visual Privacy		
<u>Objective 3F-1: Design Criteria 1.</u> Separation between windows and balconies is provided to ensure visual	The proposal complies with the <i>WDCP</i> setback requirements for the site. However, there are some	Yes, subject to conditions

Requirement	Proposed	Complies												
<p>privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="188 322 718 533"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	<p>potential privacy issues with the development which are discussed below:</p> <p>Western Side: 12m separation between buildings is not achieved. The 8-storey building at 7-13 Ellis Street is within 12m of the western façade of the proposed building. The proposal includes lift galleries, balconies and habitable room windows on the western elevation. While the lift gallery and balconies are provided with privacy treatments, habitable room windows have the potential to attain sightlines into the adjoining building. Therefore, a condition of consent has been recommended requiring these habitable rooms' windows to be treated to minimize any potential privacy impacts to the adjoining property.</p> <p>Northern and eastern side: 12m separation between buildings is achieved, however 6m is not provided from the eastern side boundary. This proposal provides a varying eastern side setback, with nil on the ground floor and between 0.75m to 2.7m on the upper levels, where the façade consist of several habitable room windows on each floor level with potential of overlooking into the neighboring property. Considering the existing neighboring condition, the proposal might not result in overlooking, however, should the site at 84 Albert Ave, ever redeveloped, there would privacy issues to and from the site. Therefore, a condition of consent has been recommended requiring all eastern façade habitable room windows to be treated with screening to minimize privacy impacts to and from the development.</p>	
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
3G Pedestrian access and entries														
<p>Building entries and pedestrian access connects to and addresses public domain.</p>	<p>The building addresses the public domain on Ellis Street with both residential and commercial lobbies accessed via Ellis Street.</p>	<p>Yes</p>												


Requirement	Proposed	Complies
<p>Access, entries and pathways are accessible and easy to identify.</p>	<p>Additionally, there is a 2m public right-of-way along the street front, featuring public art installations which would connect to and enhance the public domain.</p> <p>The entry ways into the development are clearly visible from the public domain.</p>	
3H Vehicle Access		
<p>Vehicle access points to achieve safety, minimise conflicts between pedestrians and vehicles create high quality streetscape.</p>	<p>Vehicular access to site is proposed from the south-east corner of the site. However, the vehicular crossing and the internal driveway seem to be located immediately adjacent to the side property boundary. The Council's Engineering section has raised concerns about pedestrian safety with the proposed vehicular access due to being too close to the side boundary.</p> <p>As a result, a condition of consent has been recommended requiring the crossing to be located 1.2m off the eastern boundary.</p>	<p>Yes, subject to condition</p>
3J Bicycle and Car Parking		
<p><u>Objective 3J-1: Design Criteria 1.</u> The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street. Parking and access safe and secure. Visual and environmental impacts of ground level and basement car parks minimised.</p>	<p>A total of 34 car parking spaces are proposed:</p> <ul style="list-style-type: none"> - 28 spaces for residential - 2 spaces for commercial/retail - 4 visitors spaces <p>A total of 17 bicycle spaces are proposed:</p> <ul style="list-style-type: none"> - 13 spaces for residential; and - 4 spaces for retail/commercial <p>Bicycle and Car parking are considered acceptable.</p>	<p>Yes</p>
PART 04: DESIGNING THE BUILDING		
4A Solar and Daylight Access*		
<p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.</p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>The urban design report prepared by MAKE, indicates that 27 out of 28 units will a minimum of 2 hours of direct sunlight between 9am to 3pm at mid-winter. This equates to 96% of the units.</p> <p>A 2 x bedroom unit located on the north-east corner of the 3rd floor level will be overshadowed by the existing</p>	<p>Yes</p>

Requirement	Proposed	Complies												
<p>A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm mid-winter.</p> <p>Daylight is maximised where sunlight is limited. Design incorporates shading and glare control, particularly for warmer months.</p>	<p>buildings to the north and will not receive the minimum required 2 hours of solar access.</p> <p>Notwithstanding, none of the proposed units within the building will receive no direct sun between 9am and 3pm in mid-winter.</p>													
4B Natural Ventilation*														
<p>All habitable rooms are naturally ventilated.</p> <p>The layout and design of single aspect</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only in any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p> <p>Overall depth of cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Each residential unit in the building has a corner aspect, providing natural cross ventilation.</p> <p>100% of apartments are naturally cross ventilated.</p> <p>The Northern apartment on level 2, 10, 11 and 12 has cross-over width of 19m, exceeding the requirement by 1m. Notwithstanding the proposal is acceptable as all of the apartments are cross-ventilated and receive adequate amount of solar access. The proposed development is designed to provide high level of amenity for the future occupants.</p>	Yes												
4C Ceiling Heights*														
<p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="188 1339 730 1765"> <thead> <tr> <th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For 2 storey apartments</td> <td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td> </tr> <tr> <td>Attic spaces</td> <td>1.8m at edge of room with a 30 degree minimum ceiling slope</td> </tr> <tr> <td>If located in mixed used areas</td> <td>3.3m for ground and first floor to promote future flexibility of use</td> </tr> </tbody> </table> <p>Ceiling height increases the sense of space in apartments and provides well-proportioned rooms.</p>	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	<p>A minimum floor to floor height of 2.7m has been adopted for the entire residential component of the development.</p> <p>The non-residential comprises a floor to floor height of 2.95m (ground floor) and 2.7m (Level 1 and Level 2), which does not comply with the minimum 3.3m required for ground and first floor in mixed use development.</p> <p><u>The applicant's submission does not address as to why compliance cannot be achieved.</u></p> <p>The site a total area of 808.6m² and the ground floor has approximately 100m² of its area proposed to be used as retail space.</p> <p>Notwithstanding the minor non-compliance, considering the constrained size of the subject site,</p>	Considered satisfactory
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													

Requirement	Proposed	Complies										
	<p>achieving the criteria would result in increased overall height of the building, which is discouraged.</p> <p>Given the circumstances of the site, the non-compliance is considered to be minor and can satisfy the relevant objectives prescribed by this Part.</p>	<p>Considered satisfactory</p>										
4D Apartment Size and Layout												
<p><u>Objective 4D-1: Design Criteria 1.</u></p> <p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="188 633 699 846"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bedrooms increase the minimum internal area by 5m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Achieved. All units are larger than ADG requirements.</p>	<p>Yes</p>
Apartment type	Minimum internal area											
Studio	35m ²											
1 bedroom	50m ²											
2 bedroom	70m ²											
3 bedroom	90m ²											
<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. Daylight and air may not be borrowed from other rooms</p>	<p>Every habitable room contains a window in an external wall with a minimum glass area that is greater than 10%.</p>	<p>Yes</p>										
<p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height</p>	<p>Habitable rooms are generally limited to 2.5 x the ceiling height.</p>	<p>Yes</p>										
<p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)</p>	<p>Kitchens of all units are less than 8m from a window.</p>	<p>Yes</p>										
<p>Bedrooms have a minimum dimension of 3m (excluding wardrobe space)</p>	<p>Bedrooms are of sufficient size.</p>	<p>Yes</p>										
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<p>Sufficient widths are provided to living rooms/dining rooms.</p>	<p>Yes</p>										

Requirement	Proposed	Complies															
4E Private Open Space and Balconies*																	
<p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Minimum depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom apartments</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom apartments</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m.</p> <p>Private open space and balcony design maximises safety</p>	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<p>All apartments provide the minimum required balcony areas and depths. In some cases it also exceed the minimum areas.</p> <p>Compliance with NCC required.</p>	<p>Yes, subject to condition</p>
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
4F Common Circulation and Spaces*																	
<p><u>Objective 4F-1: Design Criteria 1</u> The maximum number of apartments off a circulation core on a single level is eight.</p> <p><u>Objective 4F-2:</u> Common circulation spaces promote safety and provide for social interaction between residents</p>	<p>No more than 8 units are served from each circulation core (3 max).</p> <p>The proposal's common circulation spaces adequately promote safety and interaction.</p>	<p>Yes</p>															
4G Storage*																	
<p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m³</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m³</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m³</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m³</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment</p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments</p>	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	<p>Achieved. All units have capability for adequate storage spaces located within the apartments.</p> <p>Additional storage has also been provided on basement levels. These spaces are secure and have convenient access.</p>	<p>Yes</p>					
Dwelling type	Storage size volume																
Studio apartments	4m ³																
1 bedroom apartments	6m ³																
2 bedroom apartments	8m ³																
3+ bedroom apartments	10m ³																
4H Acoustic Privacy																	
<p>Noise transfer is minimised through the siting of buildings and building layout.</p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments.</p>	<p>Internal layouts generally place less noise sensitive areas adjacent the lift and common central corridor, and quieter areas next to and above each other. Noise impacts are mitigated either through the layout configuration or acoustic treatments.</p>	<p>Yes</p>															
4K Apartment Mix																	
<p>A range of apartment types and sizes is provided to cater for different household</p>	<p>14 x 2 bed (50%) 11 x 3 bed (39%)</p>	<p>Yes</p>															

Requirement	Proposed	Complies
types now and in the future. The apartment mix is distributed to suitable locations within buildings.	3 x 4 bed (11%) Total = 28 units 14 units are adaptable and 1 x 4 bed is nominated for affordable housing	
4L Ground Floor Apartments		
Street frontage activity is maximised where ground floor apartments are located. Design of ground floor apartments delivers amenity and safety for residents.	NA	
4M Facades		
Building facades provide visual interest along the street while respecting the character of the local area.	Facades are satisfactorily articulated to provide visual interest, using various means to visually modulate the building in both the vertical and horizontal planes.	Yes
4N Roof Design		
Roof treatments are integrated into the building design and positively respond to the street.	The top floor of the building is stepped in centrally and integrated well into the building design.	Yes
4O Landscape Design		
Landscape Design is viable and sustainable. Landscape design contributes to the streetscape and amenity.	The landscaping scheme enhances the current interface between the site and the street front, and contributes to the visual quality and amenity of the public domain.	Yes
4P Planting on Structures		
Appropriate soil profiles are provided. Plant growth is optimised with appropriate selection and maintenance. Planting on structures contributes to the quality and amenity of communal and public open space.	A variety of planting is proposed above basement levels (including deep soil), particularly on Level 1. The planting incorporates different species suitable for its location.	Yes
4Q Universal Design		
Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are provided. Apartment layouts are flexible and accommodate a range of lifestyle needs.	An Access Report provided by Inclusive Places (Ref: P000768, dated 27 April 2022) demonstrates options and flexibility of use in the development. The report confirms: - 14 of 28 units (50%) are adaptable, which satisfies the <i>WDCP</i> requirement. - 7 of 28 units are liveable (20%) which satisfies the <i>ADG</i> requirement.	Yes
4R Adaptive Reuse		
Additions that complement the existing character, siting, scale, proportion, pattern, form and detailing	An Access Report provided by Inclusive Places (Ref: P000768, dated 27 April 2022) demonstrates	Yes


Requirement	Proposed	Complies
<p>Use of contemporary and complementary materials, finishes, textures and colours</p> <p>Design features should be incorporated sensitively into adapted buildings to make up for any physical limitations, to ensure residential amenity is achieved.</p> <p>Some proposals that adapt existing buildings may not be able to achieve all of the design criteria in this Apartment Design Guide. Where developments are unable to achieve the design criteria, alternatives could be considered.</p>	<p>options and flexibility of use in the development. The report confirms:</p> <ul style="list-style-type: none"> - 14 of 28 units (50%) are adaptable, which satisfies the <i>WDCP</i> requirement. - 7 of 28 units are liveable (20%) which satisfies the <i>ADG</i> requirement. 	
4S Mixed Use		
<p>Mixed use developments positively contribute to the public domain:</p> <ul style="list-style-type: none"> - development addresses the street - active frontages are provided - diverse activities and uses - avoiding blank walls at the ground level <p>residential entries are separated from commercial entries and directly accessible from the street</p> <p>commercial service areas are separated from residential components</p> <p>residential car parking and communal facilities are separated or secured</p>	<p>The proposal satisfies active street frontage (cl 6.7 <i>WLEP</i>) requirements. The active street frontage map is shown below, where the site is identified in yellow rectangle, and active street frontage with double red lines.</p> 	<p>Yes</p>
4T Awnings and Signage		
<p>Awnings are well located and complement and integrate with the building design.</p> <p>Signage responds to context and desired streetscape character.</p>	<p>NA</p>	
4U Energy Efficiency		
<p>Adequate natural light is provided to habitable rooms</p> <p>Well located, screened outdoor areas should be provided for clothes drying</p> <p>Passive solar design aspects used</p>	<p>The BASIX assessment accompanying the application demonstrates that the proposal has been designed for optimal energy efficiency.</p> <p>Further, landscaping provides effective and efficient natural solutions to reduce heat and provide relaxed amenities for all visitors and residents.</p>	<p>Yes</p>

Requirement	Proposed	Complies
Adequate natural ventilation minimises the need for mechanical ventilation	Development is well naturally ventilated except for the basement and non-residential use, which may require alternative means of ventilation.	
4V Water Management		
Water sensitive urban design systems proposed	This proposal is accompanied by a drainage design.	Yes
Detention tanks should be located under paved areas, driveways or in basement car parks		
4W Waste Management		
Adequately sized storage areas for rubbish bins should be located discreetly away from the front of the development or in the basement car park	Waste storage facilities are provided within the development; however, they do not meet the requirements specified in the <i>WDCP</i> . As discussed earlier in this report, the waste requirements are conditioned in accordance with Council's waste management and collection procedures.	Yes, subject to conditions
All dwellings should have a waste and recycling cupboard		
Communal waste and recycling rooms are in convenient and accessible locations		
residential waste and recycling storage areas and access should be separate and secure from other uses		

Willoughby Local Environmental Plan 2012 (pre amendment 34)

Site Area - 808.6m²

WLEP Control	Proposed	Standard	Compliance	
Land Use Table - B4 Mixed use	The proposal successfully integrates suitable business, office, residential, retail in an accessible location so as to maximise public transport patronage and encourage walking and cycling.	The proposed development satisfies the objectives of the B4 Mixed use zone. It is noted that the Draft <i>WLEP</i> makes a name change of B4 to MU1 Mixed Use.	Yes	
CI 4.3	Height	44.5m (1.14% variation)	44m	No – see attachment 5
CI 4.3A Sub-cl (9)	Exceptions to height of buildings	The submitted shadow diagram by Make does not show any additional overshadowing of the Chatswood Oval between 11am and 2pm as a result of the	Development consent must not be granted to development that results in additional overshadowing of Chatswood Oval at mid-winter between 11am and 2pm.	Yes

		development. It is to be noted, the development will cause minor overshadowing to the oval; however, between 2pm and 3pm.		
CI 4.4	FSR	4.5:1	4.5:1	Yes
CI 6.7	Active Street Frontage	Ground floor premises facing the street is used for non-residential purposes	The southern boundary (frontage to Ellis Street) is affected by active street frontage as shown in the map: 	Yes
CI 6.8	Affordable Housing	4% of GFA (residential part) dedicated as affordable housing, which equates to 120.8m ² . The only residential unit located on Level 2 is to be dedicated, which equates to 121m ² , which satisfies the requirement. The applicant nominates on the Level 2 floor plan, drawing 1977-MAK-DA2012, Revision 02, dated 08/04/2023, the 4 bedroom as affordable housing, which equates to 121m ² satisfying cl 6.8 of the <i>WLEP</i> .	The site is mapped as Area 9. A 4% of the residential GFA to be dedicated as affordable housing.	Yes
CI 6.23	Design Excellence	Proposal has been awarded Design Excellence.	Affected by design excellence (Area 12).	Yes
CI 6.25	Shop top housing at certain sites at Chatswood	Approximately 619m ² (17%) of the GFA is to be allocated for non-residential purposes.	This clause applies pursuant to cl 6.25 (1) (g) which identifies SP 2715, 3 Ellis Street. Development consent for the purposes of shop top housing must not be granted unless the consent authority is satisfied at least 17% of the building's gross floor area will be used for non-residential purposes.	Yes

Willoughby Development Control Plan 2006 (WDCP 2006)				
WDCP 2006	Proposed	Standard	Compliance	
Part C – General Requirements				
C.4	Car Spaces	Residential Studio 0.5 space 1 space / dwelling (other than studios) Visitor spaces 1 per 4 dwellings 28 x 1= 28 + visitor 4 spaces Total = 32 spaces Commercial/retail combined 2 Spaces TOTAL = 34 spaces	Residential Studio 0.5 space 1 space / dwelling (other than studios) Visitor spaces 1 per 4 dwellings 28 resi + 7 visitors = 35 Commercial 1 / 110m2= 5 spaces Retail 1 / 25m2 = 4 spaces Total required 44	Shortfall of 10 spaces. See the discussion below.
	Bicycle and motorbike parking	Residential: 13 bicycle spaces and 3 motorbike spaces Commercial/retail combined 4 spaces	Residential: 1 per 12 units for bicycles And 1 motorcycle space per 25 car spaces Retail 1 per 450m ²	Yes
<p>Variation to the car parking rates: It should be noted that the existing car parking rates are 'targets' (i.e. neither minimums nor maximums) and any variation (higher or lower) must be justified through a merit-based transport impact assessment.</p> <p>Given the uplift indicated in Council's Chatswood CBD Planning and Urban Design Strategy 2036, Council has defined its intention to limit the growth of private vehicle ownership and travel in the CBD. Instead, it aims to promote a mode shift towards walking, cycling, and the use of public and shared transportation. This shift is endorsed by the new <i>WDCP 2023</i> in July 2023, which includes lower maximum car parking rates. Increasing the number of car parking spaces would only promote higher car ownership/use and thus congestion. While the proposal may not comply with the <i>WDCP 2006</i> parking rate, it aligns more closely with the objectives of the new <i>WDCP</i>, which prioritises a mode shift to other means of transport.</p> <p>In view of the above and to ensure that the CBD transport network will be able to accommodate the anticipated growth of Chatswood CBD into the future, the proposed development is deemed acceptable with regards to the car parking numbers.</p>				

C5	Water Management	OSD and stormwater treatments, gravity disposal	OSD to ensure pre-development flows, gravity discharge of stormwater	Satisfactory, subject to conditions.
C.6	Access/ Mobility	14 adaptable units.	50% of units to be adaptable = 14 units	Yes, Consent condition recommended.
	Adaptable car spaces	3 spaces proposed	3x spaces/10-14 adaptable units	Yes
C.8	Waste Management	Generated waste calculations has been partly adjusted to match <i>WDCP 2023</i> volumes. Bin room in basement. Temporary bin storage within 10m of kerbside pick-up point was recommended by Council, however, not proposed. 660Litres bins with Kerbside collection has been proposed.	Waste minimisation principles and management of the operational waste in accordance with the <i>WDCP 2006</i> and <i>2023</i> .	May be considered to be compliant with <i>WDCP 2006 and 2023</i> . See Discussion section of this report under Waste Management and Collection.
C9	Vegetation Management	2 (two trees are proposed to be removed) Trees outside site to be protected. Landscaping plan proposing plantation of several medium size trees plus shrubs and ground covers.	To promote sustainable vegetation management and conserve and enhance the tree resources, natural systems including bushland, and landscape quality.	Generally consistent. Council's Landscape Department has reviewed the proposed and offered conditions of consent.
C11	Safety by Design	The design of the development provides casual surveillance to the street frontage. Suitable street and ground level lighting will be provided within the development to maximise surveillance opportunities at night. Additionally, the proposal was	<ul style="list-style-type: none"> • Requires design that allows people • To see what others are doing in public and common spaces • Access control – physical and symbolic barriers that can be used to attract, channel or 	Generally considered satisfactory. Requirements from NSW Police are inserted in the consent.

		referred to NSW Police for comments, who raised not issues subject to recommending design treatment options required in line with Crime Prevention Through Environmental Design (CPTED) principles.	<ul style="list-style-type: none"> restrict the movement of people; Territorial reinforcement clear design cues on who is to use space and what it is used for; and Space management ensuring that space is appropriately utilised and well cared for. 	
C12	Fencing	Various	-	Generally considered satisfactory. Scheme has been subject to design excellence.
C13	Contaminated Land	Report provided	-	Council's Environment Department has reviewed the proposed and offered conditions of consent.
C14	Development near Railway Corridors or Busy Roads	Located adjacent to railway corridors	Proposal satisfies State Environmental Planning Policy (Transport and Infrastructure) 2021	Complies, subject to conditions of consent.
C15	Undergrounding of Services	All services are to be located undergrounded	-	Condition applied for undergrounding

Part E - Specific Controls for Commercial and Shop Top Housing Development

E.1.2 Density, Use and Height

This part requires that development incorporate retail, business or office uses on ground floor to provide a continuous commercial character of business zones and to maintain activity and passive surveillance at street level. This is captured with greater strength by Cl 6.7 LEP active street frontages. The proposal satisfies this requirement.

The solar access to adjoining properties and key areas of the public domain is satisfactorily maintained, and is further discussed under E.3.12.

E.1.3 Design and Streetscape Design Qualities

The outcomes with respect to Façade treatment, Building form, Façade Modulation, Solid to Void Ratio, Colour Finishes and Materials have been scrutinised by the Design Excellence process. The requirements typically dealt with by E.1.4 Setbacks, E.1.5 Building Depth,

E.1.6 Landscaping Requirements, E.1.7 Open Space Requirements for Shop Top Housing Developments, E.1.8 Privacy, E.1.9 Views and Vistas, E.1.10 Solar Access and Overshadowing, E.1.11 Service Facilities and Amenities and E.1.12 Reflectivity are captured in Part E.3.12 or through other aspects of the assessment. Privacy, for example, is dealt with by ADG, Chapter 4, SEPP (Housing) 2021.

E.3.12 – 3 Ellis Street Chatswood (Site Specific DCP)

Objectives of the site specific DCP are:

- *Provide guidelines for a mixed use development on the site.*
- *Provide a development that ensures the viability of adjoining and surrounding sites for future development.*
- *Minimise traffic impacts on the surrounding road network*
- *Ensure development on the site minimises impacts to the amenity of neighbouring residential properties.*
- *Provide landscaping in and surrounding the site that enhances the presentation of the site as well as the amenity of the development.*
- *Achieves architectural and urban design excellence.*
- *Maintains sun access to key public spaces.*

Built Form, Height and Setbacks

Built form is informed by Figure 2 under this Part of the DCP, as follows:



Despite the figure 2 under this part of the *WDCP*, the tower is required to be setback 2.2m above the podium for the entire height of the tower. The proposal does not comply with this control. Notwithstanding the proposal is acceptable for the following reasons:

- The proposal generally complies with the setbacks shown in the figure 2 above, including the following key setbacks:
 - A 2m ground floor setback to Ellis Street and 3m setback above podium.
 - 3 m setback on the western side at ground floor and above
 - A minimum 4m setback at ground floor, which increases to 9m above podium
 - Street wall height is between 6-14m (at 10.8m)
- The proposal comfortably satisfies the maximum 700m² floor plate requirement.
- No additional overshadowing of Chatswood Oval between 11am and 2pm.
- The proposal is considered to be consistent with the performance criteria outlined under the site specific *DCP*.
- The proposal has also been scrutinised by the Design Excellence Jury and found to be achieving urban design excellence.

Building Height : The proposal does not comply with the maximum building height control under the *WLEP*. A variation of 0.5m is proposed – see assessment of clause 4.6 written request in Attachment 5. The proposal does include all structures located at roof level, including lift over run within the maximum permitted building height, except for a portion of the roof structure of the Level-13 apartment, which encroaches the height blanket by 0.5m.

Building Exterior

The facades of the proposal are sufficiently articulated and incorporate recesses and projecting elements.

Amenity

The proposal sufficiently maximises [solar access](#) and ventilation to residential units, and adequately ensures visual and acoustic privacy of residential units in the [development](#). Regarding privacy of adjoining properties, conditions have been recommended.

The pedestrian [amenity](#) surrounding the site is to be significantly improved.

A wind assessment, prepared by Windtech, dated November 15, 2022, was submitted with the application. The report indicates that the proposal has generally been designed to mitigate wind affect, however, there are areas that are likely to be exposed to stronger winds. The report recommends treatment strategies to minimise any potential wind affect. A condition requiring treatment strategies to be implemented into the design has been recommended.

Open Space and Landscaping

A minimum of 2 hours of sun access is to be provided to the 3m wide public open space along the western boundary of the site. This space, as well as the 2m wide public space along the frontage, are to be captured for public use with a right-of-way.

Adequate landscaping requirement is achieved by the ground level planting and Level 1 planting.

Links

The [development](#) adequately provides publicly accessible through site links and open space, which are located in the 3m wide western setback and the 2m front setback on the ground floor for the building from Ellis Street. A right-of-way is required to be established to capture these functionality. The 3m wide space along the western boundary is suitably landscaped as required.

Active Street Frontages

The site satisfies the active street frontage requirements as required by cl 6.7 *WLEP*.

Traffic and Transport

The objectives seek to (inter alia) minimise car parking and encourage alternative transport options.

Waste Management, Loading and Services

The *WDCP* required that all loading and unloading services occur at [basement](#) level on-site. The applicant argued that a waste vehicle was not able to access the basement. Refer to the discussion section of the report for more detail.

Design Excellence

The proposal has been awarded design excellence.

Public Art

A Preliminary Public Art Strategy accompanies the proposal, which seeks to analyse and identify the best potential approaches for the inclusion of public art within the development. Council's Urban Designer has reviewed the strategy and advised that the strategy lacks the following details:

Demonstration of Excellence

- *As referenced in the 3 Ellis St 'Preliminary' Public Art Plan July 2023 - R1*

Composition of the Public Art Panel comprising:

- *Developer representative*
- *Willoughby City Council representative*
- *Independent Art Specialist*

Project budget including breakdown:

- *Project (building) CIV*
- *Public Art budget*

Public Art Ownership:

- *Dedication of the Public Art to the people of Willoughby*
 - *Agreement between Developer/Body Corporate and WCC regarding ownership*
 - *Artist Rights*
 - *Deaccession Plan/Agreement*
- *Maintenance regimen and responsibilities*
- *Expected annual maintenance budget*
- *Insurances*

A condition requiring, a revised Public Art Strategy to be prepared and submitted to Council's Urban Designer for approval, has been recommended.

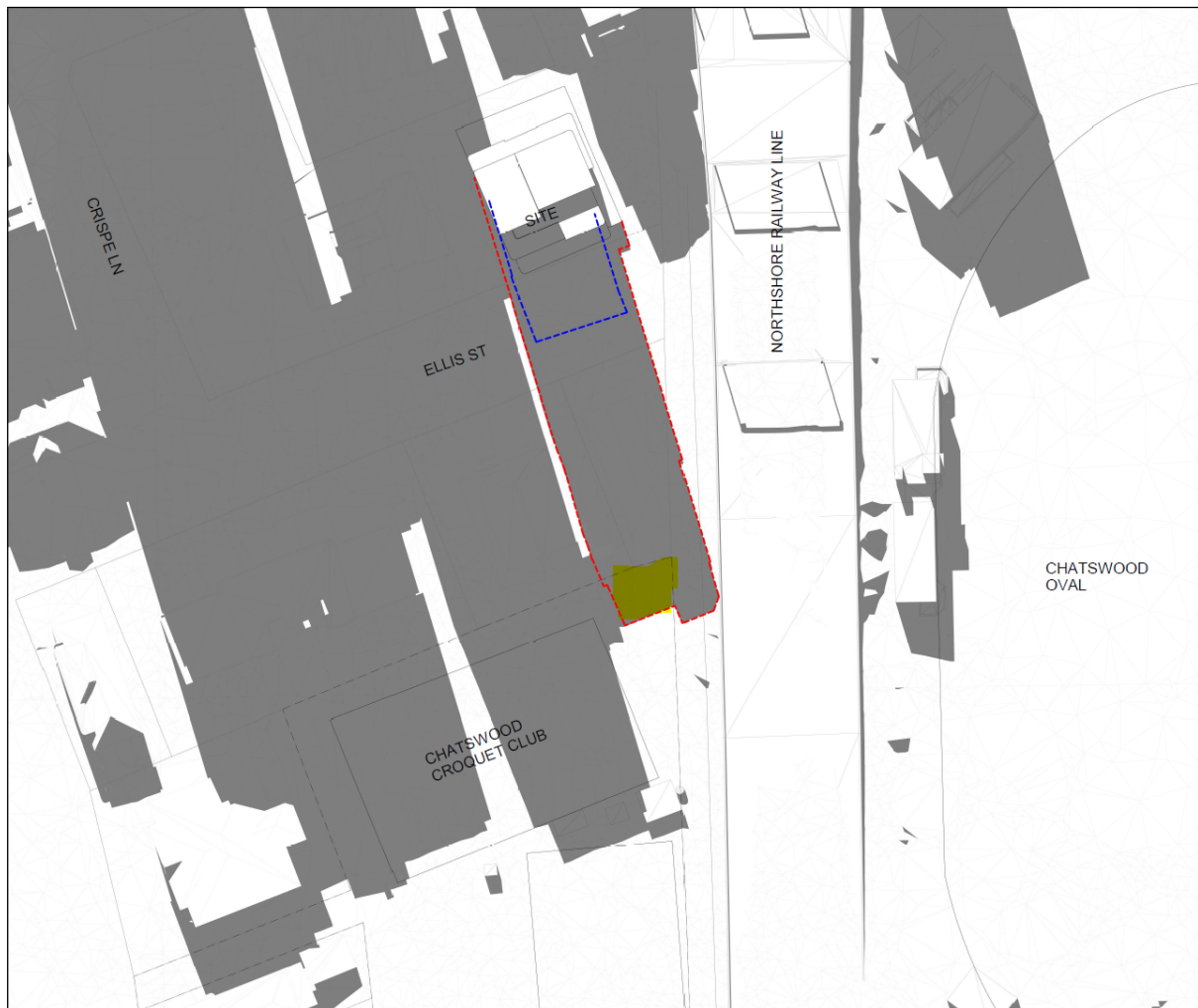
Building Sustainability

Conditions are proposed to capture building sustainability requirements.

Solar access to key public spaces

One of the objectives of the site specific *DCP* is to *maintain sun access to key public spaces*. As previously mentioned, the site is surrounded by a number of recreational facilities (public spaces) in the area, with Chatswood oval being to the east, across the railway tracks, and Chatswood Croquet Club and Chatswood Bowls Club approximately 200m to the south. Overshadowing of the Oval is protected under CI4.3A (9) of the *WLEP* and has been discussed earlier in the report.

This discussion relates to any additional overshadowing of Chatswood Croquet Club. The shadow diagrams prepared by Make architects indicate that the proposal will result in minor additional overshadowing on the Croquet Club. The overshadowing would occur between 12pm and 1pm, as depicted in yellow in the extract below:



Extract of the Shadow Diagrams – Proposed at 1PM

A peer review of shadow diagram prepared by Make Architectures has also been undertaken by Audax Urban. The key point to note from the review is that there would be no

additional overshadowing to the Croquet lawns/ courts. The additional overshadowing relates to an area which is heavily vegetated and inaccessible and is already overshadowed in part by the existing fence and tall hedge.



Aerial view of the Croquet Club Courts showing the approximate location and extent of overshadowing.

In view of the above discussion, despite the additional minor overshadowing the proposal is acceptable because the shadow relates to a heavily vegetated and inaccessible area which is already overshadowed in part by the existing fence and tall hedge. Additionally, the proposal will not cast any additional overshadowing over the surface of the Croquet Courts.

Developer's Contribution Plans:

Council's contribution officer has reviewed the proposal and provided the following comments and calculations:

*The proposal is considered a **mixed-use development** (i.e. a development comprising 2 or more different land uses). As such, in accordance with CI 2.5 and Table 1 of the Willoughby Local Infrastructure Contribution Plan 2019, a mixed-use development with a component of residential use resulting in a net increase in dwellings will be subject to either s7.11 or s7.12, whichever yields the greater amount. This calculation is demonstrated below:*

S7.11 Calculation	Qty	Proposal - Calculation	
Dwellings / Residents Proposed		dwelling rate	Contributions (\$)
2 bedroom dwelling	14	x \$15,544.09	\$217,617.26
3 or more bedroom dwelling	14	x \$20,000	\$280,000.00
Subtotal	28		\$497,617.26
<p>AH dedication req'd under WLEP Cl 6.8 - Area 1</p> <p>Cl 2.6 of WLIC Plan states that development contribution <u>does not</u> apply to Affordable Housing (AH).</p> <p>Hence exemption has been taken into account for the nominated 1 x 4-bedroom AH dwelling.</p>			
Minus 1 x 4-bedroom dwelling	27		Deduct \$20,000
(i.e. 497,617.26 minus \$20,000)		Subtotal	\$477,617.26
<p>In accordance with Cl 2.9.1 of WLIC Plan, the following credits are given for this development:</p>			
Credits for demolishing existing structures		Credits - Calculation	
		dwelling rate	Contributions (\$)
Existing dwellings in 3-4 bedroom dwellings	1	x \$20,000	
(assumption: based on dwelling sizes obtained realestate.com)		LESS	\$20,000.00
s7.11 yield amount (with credits given):	26		\$457,617.26
(i.e. 477,617.26 minus \$20,000)			

The above is compared with:

If s7.12 Contribution Calculation		
Costs of Works - based on Development Cost (incl GST)		\$25,571,503
Location		Chatswood CBD
Applicable %		3%
S7.12 yielding amount based on costs of works (\$25,571,503 x 3%):		\$767,145.09

As demonstrated above, **\$767,145.09** of **s7.12 contribution applies** to this development because **it yields greater amount than s7.11 contribution**.

Internal Referrals

Building services	Approval subject to conditions.
Engineering	<p>We have reviewed the above application with regards elements relevant to development engineering.</p> <p>With the exception of minor items that can be conditioned, the stormwater drainage system complies with the requirements of Part I of the <i>DCP</i>.</p>

	<p>An existing Council stormwater pit is located in the position of the proposed vehicle crossing. As the pit cannot be located within the crossing and an extension to the Council drainage system is required to allow connection of the site drainage system, the existing pit may be demolished and a new pit provided to the west, where the site drainage system can be connected.</p> <p>The proposed vehicle crossing and internal driveway are shown on the plans as immediately adjacent to the eastern boundary of the site. In order to allow the full extent of the vehicle crossing include wings to be constructed within the frontage of the site, the crossing and driveway need to be relocated away from the boundary. In addition, separation from the boundary is required, so that the crossing for the site is not immediately adjacent to the crossing for the neighbouring property. This is required so that the two sites have individual crossings, to slow traffic movements, and to create a space between for pedestrian safety. To comply with this requirement, we have conditioned that the crossing is located 1.2m off the eastern boundary.</p> <p>The loading bay area is only suitable for a SRV. It is not suitable for Council's waste vehicle. We understand that this has been addressed by Waste and that access by Council's waste vehicle is not required in this instance. We have imposed conditions that require the site to manage deliveries, such that deliveries are restricted to a SRV.</p> <p>Access to the basement is via a single lane ramp. The number of parking spaced and vehicle movements are within the limits set by AS 2890.1 for single lane access. As the ramp is curved and it is not possible to determine if vehicles are coming up, we have conditioned that a signal system is to be provided. As a delivery vehicle from the loading bay is not able to pass an incoming vehicle, we have required that this system is extended to the loading bay.</p> <p>The architectural plans show that the driveway between the site boundary and the loading bay only allows passing at the site entry, and then reduces to a width that is only just less than that required for 2 way traffic. As this is the area with the greatest potential for vehicle conflict, we have conditioned that the driveway width between the entry and the loading access point is to be suitable for 2 way traffic, as per AS 2890.1, with a minimum width between kerbs of 5.5m and between walls of 6.1m. This may require a minor change to the external wall of the commercial area, which we believe is achievable.</p> <p>Based on the above comments, the application is acceptable, subject to the conditions</p>
<p>Environment al Health</p>	<p>Approval subject to conditions</p>
<p>Waste</p>	<p>In the latest <i>WDCP (2023)</i>, Willoughby City Council has formally adopted the Waste Management Technical Guide and Development Controls by North Sydney Regional Organisation of Councils for multi-dwelling housing, residential flat buildings and mixed-use developments.</p> <ul style="list-style-type: none"> • The technical guide provides comprehensive information to achieve best practice design and construction of waste management and recycling systems. • The development controls provide specific requirements for internal

	<p>waste storage facilities, individual bin storage areas, communal bin storage areas, bin carting routes, and access for collection vehicles.</p> <ul style="list-style-type: none">• All major residential developments must comply with the technical guide and the specific controls for multi dwelling housing, residential flat buildings, and mixed-use buildings. <p>This requires medium and high-rise RFBs to have an onsite, bulk bin collection service (e.g., 660L or 1,100L bins for general waste and recycling), usually from the basement.</p> <p>Considering the development was proposed prior to the <i>WDCP 2023</i>, the use of <i>WDCP 2012</i> generation rates for residential bin numbers could be reasonable. However, the applicant is asking for substantial concessions to the collection requirements and the old <i>DCP (WDCP 2012)</i> generation rate for bulky waste and binned recycling is not optimal moving forward; which is why it has been increased. Allowing a lower number of bins will probably result in the building manager applying for more bins once the building is operational and therefore the systems should be forward planned in the consent, such as the collection method and storage space.</p> <p>There are issues with kerbside presentation of wheelie bins (i.e. 240L bins)¹:</p> <ul style="list-style-type: none">• The 240L service is not available for twice weekly waste collection.• A longer linear space is required to present the bins, which may not be available. <p>An option with temporary kerbside collection holding room(s) and a walk-in, walk-out service would appear to be most practical, safe and efficient.</p> <p>However, I understand from Council that the neighbouring property was granted consent to present 660L bins to the kerbside. Consequently, Council has discussed the following option, which I understand may be deemed acceptable by Council as the best available option in this case:</p> <ul style="list-style-type: none">• Allow kerbside presentation without holding room(s) given the neighbouring property is already doing this, with an agreement that onsite collection may be required in the future, subject to a suitable Council vehicle size being available, and with indemnity for Council in the event of any incident, injury or death that may occur from placement of the bulk bins and bulky waste at the kerbside²):
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¹ If the truck is a side loader (might be for 240L bins), it would need to be able to stop for the full amount of collection length on the kerbside to service the bins plus the distance it needs to drive past the bins for the sideloader to operate. 17 x 240L bins would need at least 14.3m of unimpeded linear space plus truck space for manoeuvrability at either end (assuming the NSROC 240L bin spacing of 30cm, as opposed to 1m in *WDCP 2012*).

If the truck is a rear loader (must be for bulky waste and must be for bulk bins ([.e. 600L and 1,100L]), it would need a safe HRV parking space. The occupants exit the truck to collect bulky waste manually by hand (and wheel any bulk bins) and so side clearance is also required. This should be detailed in the WMP.

² Public safety is partly why a holding room and onsite collection should be provided for bulk bins along with other items such as:

- Safe and efficient movement and collection of bins by Council's contractor including on a flat unimpeded floor surface with unimpeded clearances away from public use and in a controlled onsite environment.
- Environmental controls and tidiness (odour, vermin, leachate and litter etc.)

	<ul style="list-style-type: none"> ○ Bulk bins (660L) with a suitable nominated area provided, rear loader collection. ○ Bulky waste area with a suitable nominated area provided, rear loader collection. <ul style="list-style-type: none"> ● Provide an updated kerbside plan to the one shown in Figure 1 of this referral that includes all infrastructure, amenity and landscaping that is present within that space. ● Request a clear plan for the safe movement of bins and bulky waste from the internal storage areas to the kerbside by the building manager (not by Council). This may require a bin tug and/or cart with trailer. ● Use the NSROC generation rates (<i>WDCP 2023</i>) and bin storage requirements for recycling and bulky waste. Garden waste may be the <i>WDCP 2012</i>. General waste is the same outcome in either <i>DCP</i> (3x660L bins twice per week). ● Show where the council collection trucks will stop (10.5m long rear loader), plus a 2m clearance at the rear and 0.5m clearance either side for the occupants to exit. This should also be assessed by traffic. <p><u>Other issues to address:</u></p> <ul style="list-style-type: none"> ● <u>Bulky waste:</u> the waste plan does not demonstrate any kerbside collection location for bulky waste. It may be a large volume, the <i>WDCP 2023</i> requires 10m² of internal bulky waste storage and it would be logical that the same space is available at the kerbside given it will be the same material. ● <u>Collection frequency:</u> Council’s kerbside service is only available for once weekly collection. The current OWMP proposes twice weekly collection which is not possible. If collection takes place on-site, the development could have twice weekly general waste collection only. Recycling and organics collection is only available once per week. ● <u>Resident disposal of waste:</u> The WMP does not sufficiently detail the waste carting routes for residents to their internal storage areas for bulky waste and organic waste to ensure that it is safe and efficient. ● <u>Waste storage area conditions:</u> For the residential bin storage area, bulky waste storage area and commercial bin storage area, the development must comply with the waste storage area condition requirements. The WMP should provide more detail for the size of bin storage areas which should be detailed separately to the area required for any equipment to ensure there is sufficient space. <p>The following items have been addressed by the new plans:</p> <ul style="list-style-type: none"> ● Garbage chute and carousel – use of a linear track system for 660L MGBs; ● Doors are 2.5m wide with 1.5m aisle space; ● Locked / secured bin room and bulky waste storage area; ● Provision of hot and cold water; and ● Layout must not allow for stacking of bins two or more deep.
<p>Landscape</p>	<p>The demolition plans dated 26/4/2023 shows a single tree located on the property, however investigations show the tree was removed on or just prior to 1/8/2020. No record of approval for its removal was found in ECM.</p>

Nearmap imagery, and a site photograph included in the SEE submitted with the application, indicate the tree was in extremely poor health. It was therefore likely removed as a dead tree that had become a risk. Under *WDCP* Part G – Vegetation Management, the tree would likely have not required a permit for removal, however evidence of the trees condition should have been provided to Council. No evidence could be found through ECM search.

There are 2 established trees on the neighbouring property, 96-100 Albert Avenue. These trees have been approved for removal under a separate tree removal application. TVPA-R 2023/104 & TVPA-R 2023/104/A. They will not be a constraint to the proposed works, provided they are removed prior to commencement of excavation works within the tree protection zones (TPZ).

The tree removal approvals require replacement trees be planted on the property where the trees are being removed.

There is a tree located on the neighbouring property to the east, 84-86 Albert Avenue. The tree is located near the boundary. The tree is not a constraint to the works as its root growth will have been restricted by existing structures on the site, however it will need to be considered in the tree protection plan.

A street tree, *Lagerstroemia sp.* (Crepe Myrtle), is located on the verge of Ellis Street directly in front of the property and is to be retained and protected during the works. Tree protection during the works will be required.

The Landscape Plans issue C dated 26/4/2023 prepared by Studio IZ were reviewed.

A 3m x 2m portion of the 2m front set back is provided as deep soil, which is also located in the 3m western boundary setback. A total of 61% of the western boundary 3m setback is provided as deep soil (including the 2m within the front setback). It is noted that this does not meet the *WDCP* Part L controls for this site.

WDCP Part L; 13.1.9 3 Ellis Street Chatswood; Item 7 Open Space and Landscaping; control 6;

Deep soil planting is to be provided within the 2m setback to Ellis Street and the 3m setback to the western boundary. Deep soil plantings include trees and shrubs, and are to be unimpeded by buildings or structures below ground.

The deep area calculated as deep soil also includes some retaining walls, and paving strips to accommodate and create the publicly accessible through site link.

The Landscape Plans show a single tree located within deep soil. A *Syzigium australe cultivar* is proposed in the small deep soil area in the NE corner of the site. The species specification of a cultivar is vague with some cultivars of the species having a mature height of less than 3m.

Suitable native trees with a larger mature height shall be included for planting within the deep soil zones. Conditions for the trees to be added to

	<p>the Landscape Plans and to be planted prior to issuing of Occupation Certificate.</p> <p>There has been discussion regarding the street tree and waste collection; the existing street tree and proposed additional street tree should not pose an issue for bin collection if the bins are placed on the roadway against the kerb rather than on the grass verge.</p> <p>No objections are raised with regard to landscape issues subject to the addition of recommended conditions.</p>																
<p>Traffic and Transport</p>	<p>Traffic team does not have objection with the proposal to locate waste bins along the kerb at the frontage of the development. Please see the following detailed conditions.</p> <p><u>CONDITIONS</u></p> <p>GENERAL</p> <p>1. The 660L bins are to be placed at minimum 2-metre away from the edge of the eastern and western kerb lines adjacent to parking access crossover. This is to ensure adequate line of sight are available among motorists entering the basement carpark and pedestrians/ cyclists along footpath. The applicant is to arrange relocation of tree or NBN box if required.</p> <p>2. Swept path diagram is to be provided to indicate reverse and turning movements along Ellis Street. It is to demonstrate that the collection vehicles are able to manoeuvre at the eastern end of Ellis St.</p> <p>3. The proposed changes of location and timed restriction to No Parking sign to accommodate the collection timings will require approval from the Traffic Committee.</p>																
<p>Contributions Officer</p>	<p>Proposed Development involves:</p> <ol style="list-style-type: none"> 1. Demolition of 1 existing 3-bedroom dwellings 2. construction of a Mixed Use development comprising 28 units containing: <ul style="list-style-type: none"> ▪ 3 x 4-bedroom units (1 of these units is dedicated for affordable housing) ▪ 11 x 3-bedroom units; and ▪ 14 x 2-bedroom units <p>The proposal is considered a mixed-use development (i.e. a development comprising 2 or more different land uses). As such, in accordance with Cl 2.5 and Table 1 of the <i>Willoughby Local Infrastructure Contribution Plan 2019</i>, a mixed-use development with a component of residential use resulting in a net increase in dwellings will be subject to either s7.11 or s7.12, whichever yields the greater amount. This calculation is demonstrated below:</p> <table border="1" data-bbox="437 1832 1401 2033"> <thead> <tr> <th style="background-color: #d3d3d3;">S7.11 Calculation</th> <th style="background-color: #d3d3d3;">Qty</th> <th colspan="2" style="background-color: #d3d3d3;">Proposal - Calculation</th> </tr> <tr> <th style="background-color: #d3d3d3;">Dwellings / Residents Proposed</th> <th style="background-color: #d3d3d3;"></th> <th style="background-color: #d3d3d3;">dwelling rate</th> <th style="background-color: #d3d3d3;">Contributions (\$)</th> </tr> </thead> <tbody> <tr> <td>2 bedroom dwelling</td> <td>14</td> <td>x \$15,544.09</td> <td>\$217,617.26</td> </tr> <tr> <td>3 or more bedroom dwelling</td> <td>14</td> <td>x \$20,000</td> <td>\$280,000.00</td> </tr> </tbody> </table>	S7.11 Calculation	Qty	Proposal - Calculation		Dwellings / Residents Proposed		dwelling rate	Contributions (\$)	2 bedroom dwelling	14	x \$15,544.09	\$217,617.26	3 or more bedroom dwelling	14	x \$20,000	\$280,000.00
S7.11 Calculation	Qty	Proposal - Calculation															
Dwellings / Residents Proposed		dwelling rate	Contributions (\$)														
2 bedroom dwelling	14	x \$15,544.09	\$217,617.26														
3 or more bedroom dwelling	14	x \$20,000	\$280,000.00														

Subtotal	28		\$497,617.26
AH dedication req'd under <i>WLEP</i> CI 6.8 - Area 1			
CI 2.6 of WLIC Plan states that development contribution <u>does not</u> apply to Affordable Housing (AH). Hence exemption has been taken into account for the nominated 1 x 4-bedroom AH dwelling.	1	x \$20,000	\$20,000 exempted
Minus 1 x 4-bedroom dwelling (i.e. 497,617.26 minus \$20,000)	27		Deduct \$20,000
		Subtotal	\$477,617.26
In accordance with CI 2.9.1 of WLIC Plan, the following credits are given for this development:			
Credits for demolishing existing structures		Credits - Calculation	
		dwelling rate	Contributions (\$)
Existing dwellings in 3-4 bedroom dwellings	1	x \$20,000	
(assumption: based on dwelling sizes obtained realestate.com)		LESS	\$20,000.00
s7.11 yield amount (with credits given): (i.e. 477,617.26 minus \$20,000)	26		\$457,617.26

Compared with...

If s7.12 Contribution Calculation	
Costs of Works - based on Development Cost (incl GST)	\$25,571,503
Location	Chatswood CBD
Applicable %	3%
S7.12 yielding amount based on costs of works (\$25,571,503 x 3%):	\$767,145.09

As demonstrated above, **\$767,145.09** of **s7.12** contribution **applies** to this development because **it yields greater amount than s7.11** contribution. Therefore, condition **D03.003B** should be inserted as per below:

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$767,145.09** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 3% of the estimated cost of development, being **\$25,571,503** at **23/12/2022** and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

	<p>$\\$C_o \times \text{Current CPI}$</p> <p>Base CPI _____</p> <p>Where:</p> <p>$\\$C_o =$ the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan</p> <p>Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment</p> <p>Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution</p> <p>Deferred payments of contributions will not be accepted.</p> <p>Prior to payment, Council can provide the value of the indexed levy.</p> <p>Copies of the <i>Willoughby Local Infrastructure Contributions Plan</i> are available for inspection online at www.willoughby.nsw.gov.au</p> <p>(Reason: Statutory requirement)</p> <p>If there are any changes to the development statistics before finalising the consent, please let me know.</p> <p>In addition, there is an executed VPA associated with the subject development which specifies developer's obligations to pay VPA contributions at specific timing of the development. As such, please impose the following additional conditions:</p> <p><u>D03.999 - Planning Agreement obligations to meet prior to issue of CONSTRUCTION CERTIFICATE</u></p> <p>Planning Agreement</p> <p>Prior to the issue of <u>first</u> Construction Certificate, the obligations under the Planning Agreement executed on 11 May 2022 relating to this development are to be satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.</p> <p>(Reason: Ensure compliance)</p> <p><u>D07.999 - Planning Agreement obligations to meet prior to issue of OCCUPATION CERTIFICATE</u></p> <p>Planning Agreement</p> <p>Prior to the issue of <u>first</u> Occupation Certificate, the obligations under the Planning Agreement executed on 11 May 2022 relating to this development are to be satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.</p> <p>(Reason: Ensure compliance)</p>
Urban Design	<p>Design Excellence</p> <p>The development has satisfied the initial phase of satisfying the <i>WLEP</i> Design Excellence Clause 6.23 through the selection of an Architect and building design.</p>

	<p>The DA, while subject to relatively minor modifications, still meets with and satisfies the objective of the <i>WLEP</i> Design Excellence Clause 6.23.</p> <p>This development, as presented in the DA will make a positive contribution to the design quality of its context within the Chatswood CBD.</p> <p>Public Art Strategy</p> <p>A revised strategy detailing the following is required:</p> <p>Clearly outlining the following</p> <p>Demonstration of Excellence</p> <ul style="list-style-type: none"> ○ As referenced in the 3 Ellis St 'Preliminary' Public Art Plan July 2023 - R1 <p>Composition of the Public Art Panel comprising:</p> <ul style="list-style-type: none"> ○ Developer representative ○ Willoughby City Council representative ○ Independent Art Specialist <p>Project budget including breakdown:</p> <ul style="list-style-type: none"> ○ Project (building) CIV ○ Public Art budget <p>Public Art Ownership:</p> <ul style="list-style-type: none"> ○ Dedication of the Public Art to the people of Willoughby <ul style="list-style-type: none"> ▪ Agreement between Developer/Body Corporate and WCC regarding ownership ▪ Artist Rights ▪ Deaccession Plan/Agreement ○ Maintenance regimen and responsibilities ○ Expected annual maintenance budget ○ Insurances <p>Conditions recommended</p>
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External Referrals

<p>NSW Police</p>	<p>The following Crime Prevention Through Environmental Design (CPTED) treatment options need to be considered for the proposed development in order to reduce opportunities of crime:</p> <ol style="list-style-type: none"> 1. The site will need to be clearly identified through a street number and be visible from the street. <p>This will enable all emergency services to locate the premises.</p> <ol style="list-style-type: none"> 2. Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. “This site is under 24 hour video surveillance”. 3. Appropriated modifications should be made where necessary to accommodate the increase in traffic congestion on surrounding streets and intersections. 4. Bicycle parking should be in a secure area and covered with CCTV
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	<p>cameras.</p> <p>5. Mail boxes and parcel delivery areas should be secure and covered with CCTV cameras. If possible, a secure method for parcel delivery should be set up in the building.</p> <p>6. Storage cages should be made of suitably robust materials that can not easily be cut open and should be covered by CCTV cameras. Signs should be placed in the area warning residents not to leave valuable items in storage cages.</p> <p>7. Lighting within the site will need to be positioned in a way to reduce opportunities for offenders to commit crime i.e vandalism and graffiti. The lighting will need to be sufficient to enable people to identify signs of intoxication and anti social behaviour. The lighting will also need to be sufficient to support images obtained from any CCTV footage. Please note that some low or high pressure lighting is not compatible with surveillance systems.</p> <p>8. Doors should be of solid construction and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards – Lock Sets AS:4145.</p> <p>9. Windows within the site should be fitted with quality window lock sets that comply with the Australian Standards – Lock Sets AS:4145. Glass within doors and windows should be reinforced to restrict unauthorised access. The glass can be either fitted with a shatter-resistant film or laminated to withstand physical attacks.</p> <p>10. An electronic surveillance system should be included to provide maximum surveillance of all areas of the site including entry/exits, car parks, bicycle parking, mail areas and common areas. Cameras should also cover public footpath areas around the premises. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering.</p> <p>11. An emergency control and evacuation plan should be implemented within the site and displayed for the information of residents.</p> <p>12. Wheelchair access should at no time be blocked nor impede access to anyone with a disability.</p> <p>13. The landscaping design around the site should be free from potential hiding places and provide sightlines throughout the site and into any surrounding areas such as car parks, playgrounds and recreational amenities. Trees and shrubs should be maintained regularly to reduce concealment opportunities and increase visibility. Avoid the use of landscaping materials which could, when mature, serve as screens or barriers to impede views.</p> <p>14. The boundaries of the site should be clearly identified to deter unauthorised persons from entering the site.</p>
<p>Ausgrid</p>	<p>Ausgrid does not object to the proposed development.</p> <p>The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.</p> <p>Ausgrid Overhead Powerlines are in the vicinity of the development The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.</p>

	<p>Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.</p> <p>The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.</p> <p>It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost. Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au</p>
<p>Water NSW (Integrated Referral)</p>	<p>I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the <i>Water Management Act 2000</i> (WM Act), as detailed in the subject DA. Please note Council’s statutory obligations under section 4.47 (3) of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.</p> <p>If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council’s development consent. Please also note WaterNSW requests notification:</p> <ul style="list-style-type: none"> • If any plans or documents are amended and these amendments significantly change the • proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council’s proposed consent conditions and do not appear in the original documentation. • If Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA. • Of any legal challenge to the consent. <p>As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:</p> <p>The attached GTA issued by WaterNSW do not constitute an approval under the <i>Water Management Act 2000</i>. The development consent holder must apply to WaterNSW for a Water Supply Work approval after consent has been issued by Council and before the commencement of any work or activity.</p>

	<p>A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent. Application forms are available from the WaterNSW website which can be found here.</p> <p>WaterNSW requests that Council provides a copy of this letter to the development consent holder. WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47 (6) of the EP&A Act.</p> <p>Information to the proponent:</p> <ul style="list-style-type: none"> • A work approval application will need to be lodged and the approval obtained prior to the determination of a construction certificate. • Detailed information required to permit the hydrogeological assessment to be carried out by the Department of Planning and Environment is to be provided for any further application related to the subject property according to the minimum requirements for building site groundwater investigations and reporting. • An extraction limit will be determined by the Department of Planning and Environment following the hydrogeological assessment using the accompanying site-specific evidence supplied at the time and the amount will be included on the conditions applied to the approval. • The approval will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of permission for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.
<p>Sydney Trains</p>	<p>I refer to Council's referral requesting concurrence for the above Development Application in accordance with Section 2.99 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)</i>.</p> <p>Council is advised that TfNSW (Sydney Trains), via Instruments of Delegation, has been delegated to act as the rail authority for the heavy rail corridor, including infrastructure, and to process the concurrence for this development application.</p> <p>As such, TfNSW (Sydney Trains) advises that the proposed development has been assessed in accordance with the requirements of Section 2.99(4) of the Transport and Infrastructure SEPP being:</p> <p><i>a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:</i></p> <ul style="list-style-type: none"> <i>i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and</i> <i>ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and</i> <p><i>b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.</i></p> <p>TfNSW (Sydney Trains) has taken the above requirements into consideration and has decided to grant its concurrence to the development proposed in development application DA-2022/393 subject to Council imposing the operational conditions as written in Attachment A that will need to be complied with.</p> <p>Should Council choose not to impose the operational conditions as written in Attachment A, then concurrence from TfNSW (Sydney Trains) has not been</p>

	<p>granted to the proposed development.</p> <p>In the event that this proposed development is the subject of a Land and Environment Court appeal, Council’s attention is drawn to Section 8.12 of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. TfNSW (Sydney Trains) therefore requests that Council comply with this requirement should such an event occur.</p> <p>Council is also advised that this concurrence is not to be amended, replaced, or superseded by any concurrence issued by any other rail authority, without further agreement from TfNSW (Sydney Trains). Please contact TfNSW (Sydney Trains) Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, it is requested that when the proposed development’s Determination is issued by the Council, a copy of the Notice of Determination and conditions of consent are provided.</p>
<p>Sydney Metro</p>	<p>Sydney Metro refers to Development Application (DA) 2022/393 submitted by MGU AU Pty Ltd (Applicant) that has been referred to Sydney Metro via the NSW Planning Portal on 23 January 2023, in accordance with section 2.99 of the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP).</p> <p>Transport for NSW (TfNSW) has delegated its rail authority functions in relation to the Sydney Metro Northwest and Sydney Metro City and Southwest rail corridor to Sydney Metro. Therefore, Sydney Metro is the relevant rail authority for the Sydney Metro City and Southwest rail corridor for the purpose of the Transport and Infrastructure SEPP.</p> <p>Assessment requirements under the Transport and Infrastructure SEPP Sydney Metro has reviewed the DA documents that were uploaded onto the NSW Planning Portal on 23 January 2023 and the response to Sydney Metro’s Request for Information (RFI) and associated documentation, uploaded onto the NSW Planning Portal on 10 May 2023. Sydney Metro has assessed the development proposed by the DA in accordance with the requirements of section 2.99(4) of the Transport and Infrastructure SEPP.</p> <p>In this regard, Sydney Metro has taken into account:</p> <ul style="list-style-type: none"> (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on: <ul style="list-style-type: none"> (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects. <p>Concurrence granted subject to conditions Sydney Metro has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in the DA, subject to the consent authority imposing the conditions at Attachment A.</p> <p>Should the consent authority determine not to impose the conditions provided in Attachment A in the form provided, then concurrence from Sydney Metro has not been granted to the DA.</p> <p>The consent authority is also advised that Sydney Metro’s concurrence is</p>

not to be amended, replaced or superseded by any concurrence which may be issued by any other authority, without further agreement from Sydney Metro.

Next steps

If, at any point, the DA is amended prior to the consent authority's determination, please ensure that the amended DA and any new or amended supporting documents are provided to Sydney Metro for further assessment. Any amendments to the DA may alter the impacts of the proposed development on the Sydney Metro City and Southwest rail corridor assessed by Sydney Metro, so Sydney Metro may need to amend (or refuse) its concurrence.

Sydney Metro would be grateful if a copy of the Notice of Determination and any conditions of consent for the DA be forwarded to Sydney Metro should the consent authority determine to grant consent to the DA.

In the event that the proposed development is the subject of a Land and Environment Court appeal, the consent authority's attention is also drawn to Section 8.12 of the *Environmental Planning and Assessment Act 1979* which requires the consent authority to give notice of that appeal to a concurrence authority.

Finally, please note that the DA may also have impacts on rail corridors which are not the responsibility of Sydney Metro. If these impacts trigger any concurrence or comments function of the relevant rail authority under the Transport and Infrastructure SEPP, the DA will need to be referred to that other rail authority for a separate concurrence or comments response.

Sydney Metro thanks Council for its assistance.

Please contact Peter Bourke Senior Manager Corridor Protection or Sophie Butcher Corridor Protection Coordinator at email sydneymetrocorridorprotection@transport.nsw.gov.au should you have any further enquiries on this matter.

Note: After receiving the latest set of amended plans on 18/03/2024, a review of concurrence request has been sent to Water NSW and Sydney Metro. Both agencies have confirmed, verbally that there should not be any issues with the amended plans, as the changes are minor and only relate to internal reconfiguration. Formal responses from the agencies are expected to be received before the meeting on 30 April 2024.

ATTACHMENT 3: SUBMISSIONS TABLE

The Development Application was notified to adjoining and nearby property owners in accordance with the *Willoughby Community Participation Plan* for a period of 21 days from 16 January 2023 to 7 February 2023. During this period, 65 public submissions were received.

Following an amendment to the proposal, the application was re-notified to adjoining and nearby property owners in accordance with the *Willoughby Community Participation Plan* and Schedule 1 of the EPA Act 1979 for a period of 28 days from 16 August 2023 to 13 September 2023. During this period, 17 submissions were received and 9 of those were from previous objectors and 8 being new.

The submissions received by the Council during the re-notification period for this application did not raise any new issues that had not been addressed during the initial notification period. The issues raised are summarised below:

The below table provides the issues raised by the objectors and Council's response.

No.	Submission(s) Date	RE-Notification Submission(s) Date	Respondent Address	Suburb
1	21-Jan-23	17-Aug-23	7 Ellis St	Chatswood
2	24-Jan-23		No Given Address	
3	24-Jan-23		No Given Address	
4	24-Jan-23		No Given Address	
5	24-Jan-23		No Given Address	
6	25-Jan-23	13-Sep-23	No Given Address	
7	25-Jan-23		20/84-86 Albert Ave	Chatswood
8	25-Jan-23		No Given Address	
9	25-Jan-23		No Given Address	
10	25-Jan-23		No Given Address	
11	26-Jan-23		No Given Address	
12	26-Jan-23		No Given Address	
13	26-Jan-23		No Given Address	
14	26-Jan-23		No Given Address	
15	25-Jan-23		No Given Address	
16	25-Jan-23		No Given Address	
17	25-Jan-23		No Given Address	
18	25-Jan-23		No Given Address	
19	25-Jan-23		No Given Address	
20	25-Jan-23		No Given Address	
21	26-Jan-23		No Given Address	
22	25-Jan-23	01-Sep-23	No Given Address	
23	25-Jan-23		No Given Address	
24	26-Jan-23		14A Carlton Cres	Kogarah Bay
25	26-Jan-23		No Given Address	
26	26-Jan-23		86 Woids Ave	Allawah
27	26-Jan-23		No Given Address	
28	26-Jan-23		No Given Address	

29	26-Jan-23		No Given Address	
30	26-Jan-23		No Given Address	
31	26-Jan-23		No Given Address	
32	26-Jan-23		No Given Address	
33	26-Jan-23		No Given Address	
34	27-Jan-23		No Given Address	
35	27-Jan-23		No Given Address	
36	27-Jan-23		No Given Address	
37	27-Jan-23		No Given Address	
38	27-Jan-23	13-Sep-23	No Given Address	
39	27-Jan-23		No Given Address	
40	27-Jan-23		No Given Address	
41	27-Jan-23		No Given Address	
42	27-Jan-23		Taunton St	Blakehurst
43	27-Jan-23		No Given Address	
44	27-Jan-23	22-Aug-23	503/18 Freeman Rd	Chatswood
45	27-Jan-23		7-13 Ellis St	Chatswood
46	27-Jan-23	25-Aug-23	No Given Address	
47	27-Jan-23		No Given Address	
48	27-Jan-23		No Given Address	
49	28-Jan-23		No Given Address	
50	29-Jan-23		No Given Address	
51	31-Jan-23		No Given Address	
52	31-Jan-23		No Given Address	
53	01-Feb-23		No Given Address	
54	01-Feb-23		No Given Address	
55	04-Feb-23		96-100 Albert Ave	Chatswood
56	04-Feb-23		96-100 Albert Ave	Chatswood
57	04-Feb-23		No Given Address	
58	06-Feb-23	19-Sep-23	57/7-13 Ellis St	Chatswood
59	06-Feb-23	19-Sep-23	36/7-13 Ellis St	Chatswood
60	07-Feb-23		Level 7, 46 Market Street	Sydney
61	07-Feb-23		No Given Address	
62	09-Feb-23		No Given Address	
63	13-Feb-23	23-Aug-23	8 Ellis St	Chatswood
64	17-Feb-23		7 Ellis St	Chatswood
65	25-Jan-23		1 Narooma St	Northbridge
66		27-Aug-23	No Given Address	
67		02-Sep-23	No Given Address	
68		03-Sep-23	No Given Address	
69		13-Sep-23	No Given Address	
70		12-Sep-23	No Given Address	
71		13-Sep-23	No Given Address	
72		12-Sep-23	No Given Address	
73		13-Sep-23	No Given Address	

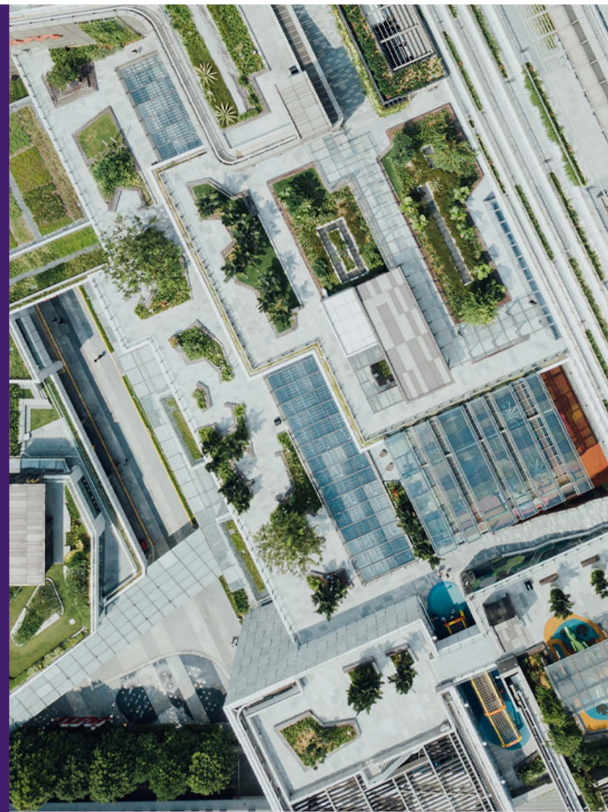
Issues raised from initial notification period	Response
Noise and disruption to neighbouring properties caused by demolition and construction works.	Noise during demolition and construction period will need to be managed during the respective phase. Hours of work will be limited to minimise any potential impacts on the neighbours.
Traffic congestion issues on Ellis Street, Albert Avenue, Pacific Highway and Crispe Lane from increased residential density and commercial premises in the neighbourhood.	The application accompanies a traffic and transport assessment report prepared by JMT Consulting. The Council's Transport and Traffic section has reviewed the report and advised that the proposed traffic generated by the development is not significant and would not excessively contribute to traffic congestion.
Concern for amount of car spaces to accommodate commercial use.	The site is highly accessible, as it is in close proximity to Chatswood train and metro stations, as well as major arterial roads such as the Pacific Highway and Mowbray Road. The development proposes car parking spaces fewer than the required number of spaces as it aims to encourage a shift towards walking, cycling, and the use of public and shared transportation. This approach is consistent with the objectives of the zone.
View obstruction to neighbouring properties at 84-86 Albert Avenue.	Concerns have raised from the adjoining property at 84-86 Albert avenue, which is located north-east of the subject site with regards to view obstruction. No known significant or iconic views are currently obtained through site, which would be obstructed as a result of the development.
Overcrowding in neighbourhood which causes concern for road access to neighbouring properties and potential disturbance of privacy and safety of the community.	The proposal is considered to be consistent with the objectives of the zone and the site is considered suitable for the development for the reasons discussed throughout the report. With regards to disturbance of privacy special conditions of consent have recommended requiring design treatments to the development to minimise any potential visual privacy issues.
Amenity impacts - overshadowing and potential loss of privacy at 7-13 Ellis Street.	The proposal will result in additional overshadowing of the adjoining property at 7-13 Ellis Street between 9 am and 11 am. The site has been rezoned for an uplift to support the Chatswood city centre, with a significant height and floor space ratio (FSR) increase. Considering the uplift envisaged in the CBD, the overshadowing impacts from the development are considered to be minor and do not unreasonably affect the adjoining properties.
Loss of tree canopy on the site.	No trees are proposed to be removed as part of the subject application. However, the proposed excavation works, to accommodate the basement levels, may impact the trees on

Issues raised from initial notification period	Response
	the two established trees on the adjoining property at 7-13 Ellis street. As per the information provided with the application and Council's records, these trees have been approved for removal under a separate tree removal application. TVPA-R 2023/104 & TVPA-R 2023/104/A. They will not be a constraint to the proposed works, provided they are removed prior to commencement of excavation works within the tree protection zones (TPZ).
Visual impact on neighbourhood character due to the bulk of the building.	The proposed building is compatible with the bulk and scale of the developments within the CBD area, and consistent with the streetscape. Additionally, proposal has been scrutinised by the Design Excellence Jury and found to be achieving urban design excellence.
Safety of residents from debris during construction period.	This concern would be dealt at the construction phase through implementing waste management plan for demolition and construction, which has been requested in the conditions of consent.
Suitability of commercial levels on a street with little foot traffic.	The site is highly accessible, as it is in close proximity to Chatswood train and metro stations, as well as major arterial roads such as the Pacific Highway and Mowbray Road. The development proposes car parking spaces fewer than the required number of spaces as it aims to encourage a shift towards walking, cycling, and the use of public and shared transportation. Therefore the proposed three levels of retail/commercial space are considered suitable for the site and the locality.
Non-compliance with the building envelope as per <i>WDCP</i> .	The proposal is considered acceptable with regards to the building envelope controls under <i>WDCP</i> . Please refer to <i>WDCP</i> assessment under attachment 2 of this report.
Excavation and construction of 4 levels of basement car parking potentially affects the foundation and basement level at 96-100 Albert Avenue and 7-13 Ellis street.	Acceptable, subject to conditions of consent requiring dilapidation reports to be undertaken of the adjoining properties prior to the commencement of works.
Shadow diagram plan provided does not show the actual overshadowing impact on 96-100 Albert Avenue residential building, Chatswood Oval and cricket grounds.	The submitted shadow diagrams show overshadowing at 1 hours interval which is considered adequate to assess any potential overshadowing impacts. Additionally, the application also accompany a peer of the overshadowing diagrams provided by Make architects, which adds further credibility to the assessment process.
The proposed 14 storey building is not compatible with the neighbouring 7 storey residential building at 96-100	The proposed building is considered to be compatible with the bulk and scale of the developments within the CBD area, and

Issues raised from initial notification period	Response
Albert Avenue.	consistent with the streetscape. The proposal is generally comply with <i>WLEP</i> development standards except for a minor breach to the Building height control. Additionally, the proposal has been scrutinised by the Design Excellence Jury and found to be achieving urban design excellence.
Overshadowing risk to tree canopy (eucalyptus trees) on Ellis Street.	The street trees are expected to tolerate any potential overshadowing casted by the development.
The building at 96-100 Albert Avenue will be between a 17 storey apartment building and the 14 storey building in this proposal. There is a potential impact on airflow, creating a wind tunnel between the aforementioned buildings along with lack of sunlight.	Pedestrian Wind Environment Statement (Ref: WG647-03F02 (Rev1) prepared by Windtech has provided a qualitative assessment of the proposed development and is found to be satisfactory.
The existing trees near Pacific Highway should not be removed.	The subject site is located approximately 110m east of the Pacific highway and no significant trees are proposed to be removed as part of the development application.
The proposed building is incompatible with other dwellings at Ellis Street which contain 4-7 levels of units.	The site was rezoned for an uplift in accordance with the Chatswood CBD Urban Design Strategy 2036, with a significant height and floor space ratio (FSR) increase. The adjoining site also benefit from similar uplift Height and FSR controls under the <i>WLEP</i> 2012 (Amendment 34) gazetted on 30 June 2023.
Noise pollution caused by commercial uses in building e.g. restaurants and entertainment establishments.	The proposed development does not nominate a specific use or hours of operation as part of the subject application. Any potential impacts related to the specific use of the retail and commercial spaces would be subject to further approval processes.
Commercial uses exacerbate rodent infestation issue in neighbourhood which is most evident in the nearby Chatswood Park and Oval.	Not matter to be considered under S4.15 of the EP&A Act 1979, given no specific use is nominated.
Destruction of two trees and irreparable damage to the retaining wall on site boundary at 7-13 Ellis Street.	As previously mentioned, the proposal does not include removal any trees. With regards to any damage to the existing retaining wall on the adjoining property, dilapidation report conditions has been imposed.
Anchor points, location of crane and airspace, dilapidation reports to be done for SP9543, location of boarding, scaffolding and covering in reference to the building of SP9543. Checks and controls of water ingress when digging carpark.	This proposal only relates to works within the subject site and public reserve fronting the site. Any works outside of the property boundary including anchoring or underpinning would require relevant owner's consent. Dilapidation report condition has been included in the consent.
Air pollution (dust) during construction period affecting neighbouring	Standard conditions of have been recommended requiring dust control measures

Issues raised from initial notification period	Response
properties.	during development works.
Impacts from intensified rubbish dumping on street frontage for Council clean-up collection as a result of increased residential density.	Residential bulky goods waste collection has been addressed through conditions of consent.

ATTACHMENT 4: APPLICANT'S CLAUSE 4.6 SUBMISSION – HEIGHT



3 Ellis Street, Chatswood NSW 2067

Clause 4.6 Variation Request – Height
of Buildings

On behalf of MPG AU Pty Ltd

December 2022

The Planning Studio acknowledges the traditional custodians of the lands + waters of Australia, particularly the Gadigal People on whose traditional lands our office is located, and pay our respects to Elders past, present + emerging. We deeply respect the enduring Connection to Country + culture of Aboriginal and Torres Strait Islander peoples and are committed to walk alongside, listen + learn with community as we plan for equitable, sustainable, generous, and connected places. Always was, Always will be.

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1 Introduction

This Clause 4.6 Variation Request seeks to allow a variation to the Height of Buildings development standard associated with the Development Application at 3 Ellis Street, Chatswood NSW 2067 (the site). The DA seeks approval for:

- Demolition of existing buildings on the site;
- Construction of a new 14-storey mixed-use development:
 - Largely retail/commercial podium, with ground-floor retail and commercial uses on level 1 and part- level 2 with an approximate area of 619m²
 - 28 residential units over 12 levels (one residential unit is included in the otherwise non-residential podium) comprising
 - 15x 2-bedroom apartments; and
 - 13x 3+ bedroom apartments;
- Excavation for four levels of basement car parking comprising:
 - 42 car spaces;
 - 2 motorbike spaces;
 - Loading bay for SRV at Basement Level 1; and
 - Bicycle spaces for each unit within their residential storage area.

The Clause 4.6 Variation Request seeks to vary one development standard within the Willoughby Local Environmental Plan 2012 (WLEP2012):

- Clause 4.3 – Height of Buildings

This Clause 4.6 Variation Request demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case and that the justification is well founded. The variation allows for a development that represents the orderly and economic use of the land in a manner which is appropriate when considering the site's context and existing building, and as such, is justified on environmental planning grounds.

This Clause 4.6 Variation Request demonstrates that, notwithstanding the non-compliances, the proposed development:

- Achieves the objectives of the development standard in Clause 4.3 of WLEP 2012, despite the non-compliance with the numerical standard in Clause 4.3;
- Achieves the objectives of the B4 Mixed Use zone;
- Will deliver a development that is appropriate for its context, despite the numerical breach to development standard 4.3, and therefore has sufficient environmental planning grounds to permit the variation; and
- Is therefore in the public interest.

As a result, the DA may be approved as proposed in accordance with the flexibility afforded under Clause 4.6 of the WLEP 2012.



2 Clause 4.6 Exceptions to Development Standards

Clause 4.6 of the WLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development. Specifically, the objectives of this clause are:

- To provide flexibility in the application of a development standard; and
- To achieve better outcomes for and from development.

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard:

- That the applicant has provided a written request that has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
- That the applicant has provided a written request that has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard; and
- That the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 4.6 of the WLEP 2012 reads as follows:

Clause 4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of **flexibility in applying certain development standards** to particular development,*
 - (b) *to **achieve better outcomes for and from development by allowing flexibility in particular circumstances.***
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks 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 development standard.***
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*



- (i) the applicant's written request has adequately **addressed** the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be **in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and**
- (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

3 The Development Standard to be varied

This Clause 4.6 Variation Request has been prepared in a written format, seeking to justify the variation to the following development standard in the WLEP2012:

- Clause 4.3 (Height of Buildings) – which permits a maximum Height of Buildings of 44m
Refer to Figure below.

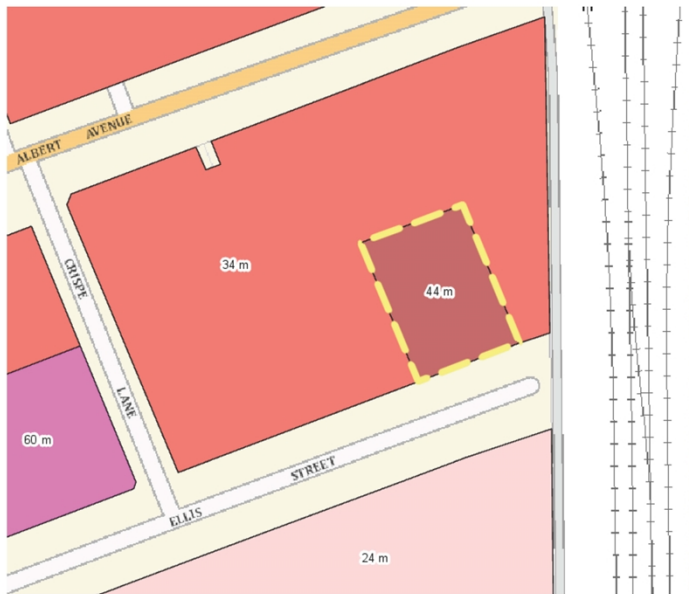


Figure 1: Subject site – Height Standard (Clause 4.3 WLEP2012)



Clause 4.3 states:

4.3 Height of buildings

(1) The objectives of this clause are as follows—

- a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,
- b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
- c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,
- d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,
- e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,
- f) to use maximum height limits to assist in responding to the current and desired future character of the locality,
- g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,
- h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

4 Extent of Variation to the Development Standard

The subject application proposes a maximum building height of 44.5m at the area of most significant breach, representing a 0.5m or 1.14% variation to the development standard. The Figure below shows the greatest extent of variation to the height control.





Figure 2: South Elevation showing maximum building height plane (MAKE Architects)





Figure 3: North Elevation showing maximum building height plane (MAKE Architects)

The development breaches the height control as a consequence of the increased floor-to-floor heights required for non-residential uses on the podium levels of the building (3 storeys). These three storeys need 3.4m floor to floor heights, as opposed to 3.1m permitted for residential storeys.

The post-exhibition introduction of a new development standard mandating that 17% of the floor space of the development be for non-residential uses, has resulted in needing to increase the building height by 300mm on levels 1 and 2, which was not anticipated at any point during the original Planning Proposal exhibition or design competition.





Figure 4: Evolution of Design (MAKE Architects)

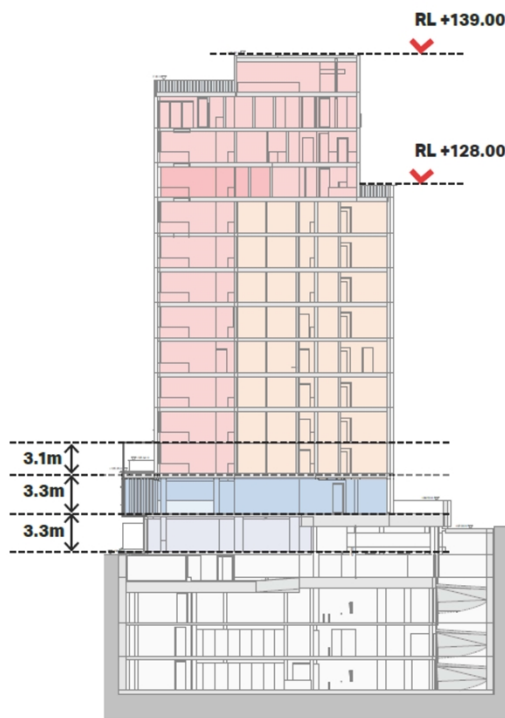


Figure 5: Building section – competition scheme (MAKE Architects)



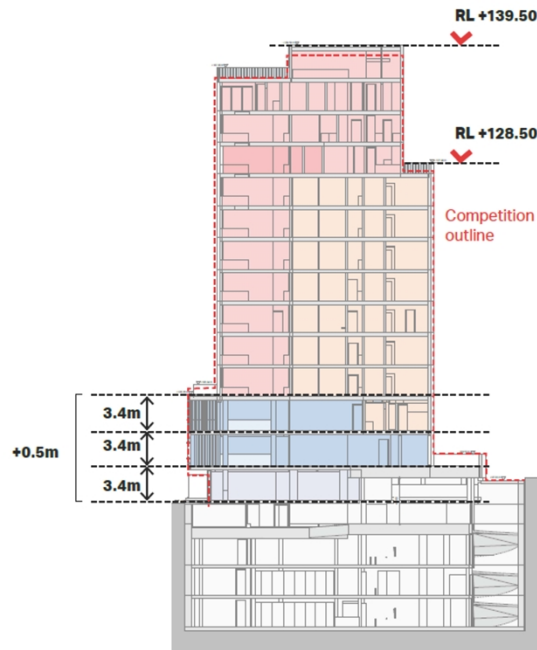


Figure 6: Building section – evolved scheme (MAKE Architects)

4.1 Objectives of the Standard

The objectives of the Standard are as follows:

- a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,
- b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,
- c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,
- d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,
- e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,
- f) to use maximum height limits to assist in responding to the current and desired future character of the locality,
- g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of



Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,

- h) *to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

4.2 Objectives of the Zone

The Objectives of the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for city living on the edges of the city centre of Chatswood, which supports public transport use, shopping, business and recreational services that contribute to the vitality of the centre, without undermining its commercial role.*

5 Assessment

5.1 Clause 4.6(3)(a) – compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Compliance with the height standard is unreasonable and unnecessary as the objectives of the FSR development standard are achieved notwithstanding non-compliance with the numerical standard (Wehbe 1# test):

- As detailed in *Williams v Ku-ring-gai Municipal Council* [2017] NSWLEC 1098, *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [44]–[48], a number of approaches could be used to establish that compliance with a development standard is unreasonable or unnecessary.
- Furthermore, Preston CJ in *Wehbe v Pittwater Council* (2007) 156 LGERA 446 [42]–[51] outlined five common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable and unnecessary which are summarised below:

Test 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;

Test 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

Test 3. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

Test 4. 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; or

Test 5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of



the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

- iii. These five ways to demonstrate that compliance is unreasonable or unnecessary are not exhaustive, and it may be sufficient to establish only one way.
- iv. With respect to the subject application, we consider that the proposed development meets the requirements of Wehbe Test 1 and therefore compliance with the development standard is unreasonable and unnecessary when considered holistically with the development outcome being sought.

5.1.1 Wehbe Test 1 – Objectives of the Standard are achieved

1. *Objective (a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
 - i. The variation to the development standard is of a very minor nature (0.5m), which given the high-density context the surrounds will not be visible in any meaningful sense. Accordingly, the proposed development will still be in harmony with the bulk and scale of surrounding buildings and the streetscape.
 - ii. The site is surrounded by a number of significantly taller buildings and a high density CBD environment. The variation to the height control will not affect the proposed development's context within the streetscape.
 - iii. The height variation is as a consequence of needing to increase the floor-to-floor heights for the commercial uses on levels 1 and 2, which will reflect the floor-to-floor heights for other surrounding non-residential development and will therefore ensure the development is in better harmony with the bulk and scale of surrounding buildings.
2. *Objective (b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
 - i. The very slight variation to the height control will not create any additional impact on adjoining or nearby properties with respect to view, loss of privacy, overshadowing or visual intrusion.
 - ii. The proposed development complies with the relevant planning controls with respect to all these planning and environmental considerations and the minor 0.5m height variation does not create any additional impact in these area beyond that of a compliant proposal.
3. *Objective (c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
 - i. The development is in a relatively prominent location, being visible from the Chatswood Oval and other public spaces.
 - ii. The visual quality of the development when viewed from adjoining properties, the street or public reserves is improved by providing a more appropriate scale at for the non-residential uses and development podium of floor-to-floor heights of 3.4m, which better reflects the built form treatment and visual quality of other non-residential podiums in the surrounds.



4. *Objective (d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
 - i. The variation to the height control of up to 0.5m (there are parts of the site where the landfall means the entire building complies with the height control) is insubstantial and will not be able to be discerned from adjacent developments or from public open spaces.
 - ii. Accordingly, the variation will create not additional disruption to existing views or view sharing beyond a compliant development, which has been assessed as being acceptable against this planning control.
5. *Objective (e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
 - i. As discussed earlier, the variation is as a consequence of a control that was introduced post-exhibition of the Planning Proposal and was not tested against the other planning and built form controls applicable to the site.
 - ii. The control mandated that 17% of floor space be allocated for non-residential uses, which require taller floor-to-floor heights than residential land uses. This created a need to increase the floor-to-floor heights on levels 1 and 2 by 300mm each floor (total of 600mm), which was not tested prior to being introduced.
 - iii. Given that the variation is as a consequence of a control that was not fully tested or exhibited, and does not create any additional planning or environmental impacts, the variation is still consistent with this objective.
6. *Objective (f) to use maximum height limits to assist in responding to the current and desired future character of the locality,*
 - i. The proposed development still responds to the current and desired future character of the locality, despite the minor variation to the height control.
7. *Objective (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
 - i. The proposed development is compliant with the new Chatswood CBD controls in both the LEP and DCP, with the exception of this minor variation to the height control, which is the consequence of a control to ensure sufficient non-residential floor space on the site.
 - ii. Therefore, the proposal reinforces the primary character of the city centre of Chatswood, despite the variation to the height control.
8. *Objective (h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*
 - i. Despite the variation to the height control, the development will still achieve an appropriate transition in building scale from the higher intensity Chatswood CBD to the surrounding residential areas.



5.2 Clause 4.6(3)(b) – sufficient environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify contravening the development standard for the following reasons:

- i. The development breaches the height control as a consequence of the increased floor-to-floor heights required for non-residential uses on the podium levels of the building (3 storeys). These three storeys need 3.4m floor to floor heights, as opposed to 3.1m permitted for residential storeys.
- ii. The post-exhibition introduction of a new development standard mandating that 17% of the floor space of the development be for non-residential uses, has resulted in needing to increase the building height by 300mm on levels 1 and 2 – which was not anticipated at any point during the original Planning Proposal exhibition or design competition and its implications to the building height control were not tested.
- iii. Despite creating a 0.5m breach to the height control, the variation delivers a more appropriate built form outcome as providing the increased 3.4m floor-to-floor for levels 1 and 2:
 - a. Ensures the amenity for these future areas is protected to maximise their successful delivery; and
 - b. Ensures that the built form better reflects surrounding non-residential podiums in the Chatswood CBD that also have taller floor-to-floor ratios.
- iv. The variation is minor and will not be visible or discernable from adjacent properties or the public domain.
- v. The fall of the land of the existing ground level means that the height variation only occurs for a portion of the building, not its entirety. To further reduce the height by 0.5m for a portion of the development would create a poorer built form outcome that was not sufficiently rational.
- vi. The proposed development is considered compatible with surrounding development within the Chatswood CBD. Notwithstanding contravention of the maximum height limit, the proposal is also considered to be in harmony with existing development along the streetscape.

Accordingly, it is considered that there are sufficient environmental planning grounds to justify contravening the development standards, as the development will deliver one of the key Objects of the Planning Act, while also allowing for the promotion and coordination of the orderly and economic use and development of the land for community housing, community services and local commercial services.

In addition, it is noted that the proposed development will still produce a contextually appropriate outcome consistent with the objectives of the height of buildings development standard, despite the non-compliance with the numerical height provision.



5.3 Clause 4.6(4)(a)(i) – consent authority is satisfied that the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3)

As demonstrated above, the proposed development has satisfied the matters required to be demonstrated in Clause 4.6(3) by providing a written request that demonstrates:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- There are sufficient environmental planning grounds to justify contravening the development standard.

In accordance with the findings of Commissioner Preston in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, the Consent Authority under Clause 4.6(4)(a)(i) must only be satisfied that the request adequately addresses the matters in Clause 4.6(3).

5.4 Clause 4.6(4)(a)(ii) – the proposed development is in the public interest because it is consistent with the objectives of the particular and the objectives for development within the zone in which the development is proposed to be carried out

The proposed development is in the public interest as it is consistent with the objectives of the development standard. The objectives of the development standard are addressed below under the relevant headings:

The objectives of the particular standard

- It has been demonstrated elsewhere in this report that the development achieves the objectives of Clauses 4.3, of the WLEP2012 notwithstanding the non-compliance with the standard.

The objectives for development within the zone in which the development is proposed to be carried out. Consistency with the objectives of the B4 zone is described below:

- To provide a mixture of compatible land uses: The proposal will deliver new residential apartments and three levels of retail and commercial uses that are compatible and consistent with the mixed use nature of the zone. The non-residential uses comply with the FSR requirements and also reflect the development’s overall compatibility of land uses. The variation to the height control is as a consequence of providing increased floor-to-floor ratios for non-residential uses, which results in an optimised mixture of compatible land uses compared to a building with a compliant height control.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling: The development will provide for ground-floor retail, and level 1-2 commercial with residential dwellings above in a highly accessibility location adjacent to a train and Metro station. The development’s proposed bicycle parking will support and encourage walking and cycling and its consistency with the maximum parking controls will also maximise public transport patronage.



- To allow for city living on the edges of the city centre of Chatswood, which supports public transport use, shopping, business and recreational services that contribute to the vitality of the centre, without undermining its commercial role: The proposal, including its built form and elements above the height control, will support the strategic and statutory priorities of Willoughby Council to deliver a high-quality Chatswood CBD with significant residential and non-residential land uses. The height variation is a consequence of improving the amenity of the future non-residential uses by increased ceiling heights and therefore does not undermine its commercial role.

6 Matters of significance for State or regional environmental planning

Contravention of the standard raises no matters of significance for state or regional environmental planning.

7 Secretary's concurrence

The Planning Circular PS 18-003, issued on 21 February 2018 (Planning Circular), outlines that all consent authorities may assume the Secretary's concurrence under clause 4.6 of the Standard Instrument (Local Environmental Plans) Order 2006 (with some exceptions). The WLEP2012 is a standard instrument LEP and accordingly, the relevant consent authority may assume the Secretary's concurrence in relation to clause 4.6 (5). This assumed concurrence notice takes effect immediately and applies to pending development applications.

We note that under the Planning Circular this assumed concurrence is subject to some conditions - where the development contravenes a numerical standard by greater than 10%, the Secretary's concurrence may not be assumed by a delegate of council. This restriction however does not apply to decisions made by a local planning panel, as they are not legally delegates. The proposed variation is less than 10%.

8 No public benefit in maintaining the development standard

There is no public benefit in maintaining the development standards, due to the reasons outlined in Sections 5 and 6 above.

9 Conclusion

The variation to the Height of Buildings development standard should be supported for the following reasons:

- The development achieves the objectives of the development standard in Clause 4.3 of WLEP 2012;
- The development achieves the objectives of the B4 Mixed Use zone under WLEP 2012;



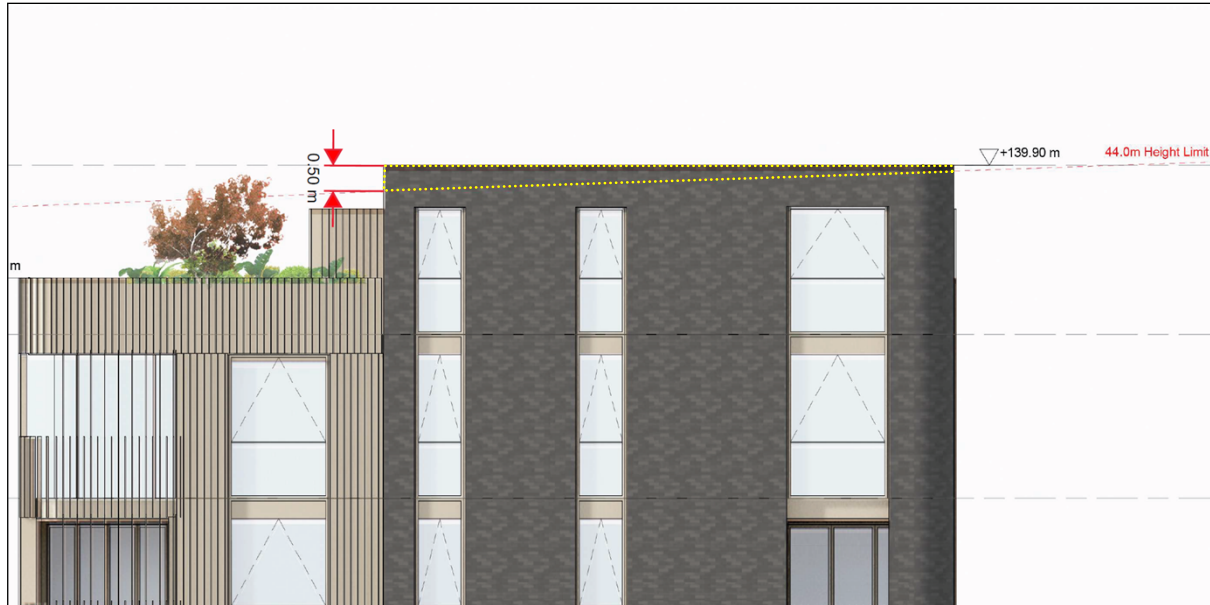
- There are sufficient environmental planning grounds to permit the variation to the standard under the circumstances; and
- Compliance with the height of buildings development standard is unreasonable or unnecessary under the circumstances and therefore the variation is in the public interest.



ATTACHMENT 5: OFFICER’S CLAUSE 4.6 ASSESSMENT – HEIGHT

Description of non compliance

Development Standard	Height Standard	Proposed Height	%Variation
CI 4.3 Height of buildings	44m	44.5m indicated by the applicant.	1.14% 0.5m over the standard



Key points of the applicant’s submission:

- i) The development breaches the height control as a consequence of the increased floor-to floor heights required for non-residential uses on the podium levels of the building.
- ii) The variation is minor and will not be visible or discernable from adjacent properties or the public domain.

Objectives of Clause 4.6

4.6 (1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

CI 4.6 Criteria	Response
4.6(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the	The development standard is not expressly excluded from the operation of this clause.

CI 4.6 Criteria	Response
<i>operation of this clause.</i>	
4.6 (3) <i>Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—</i>	
a) <i>Has the applicant’s submission demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and</i>	The applicant has provided a written request that seeks to justify the contravention of the development standard on the basis that compliance is unreasonable and unnecessary in the circumstances of this case.
b) <i>Has the applicant’s submission demonstrated that there are sufficient environmental planning grounds to justify the non-compliance?</i>	The applicant’s written request has sought to demonstrate sufficient environmental planning grounds.
4.6(4) <i>Development consent must not be granted for development that contravenes a development standard unless:</i>	
a) i) <i>Has the applicant’s written request adequately addressed the matters required to be demonstrated in subclause 3</i>	The applicant’s written request has adequately demonstrated that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify the non-compliance
ii) <i>Is the proposed development in the public interest because it is consistent with:</i>	
• <i>objectives of the particular development standard</i>	Yes, see assessment below
• <i>objectives for the development within the zone in which the development is proposed to be carried</i>	Yes, see assessment below

Consistency with the objectives of the Height of Buildings development standard:

Consistency of the proposed development with the height of building standard’s objectives is discussed below:

Height of Building Development Standard Objectives	Response
a) <i>to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,</i>	The proposed height of the building is compatible with the bulk and scale of the developments within the CBD area, and consistent with the streetscape. The proposed variation in height is minor, and considering the site is surrounded by several significantly taller buildings in the CBD area, the impact of this variation is minimal. Therefore, the 0.5m variation will not alter the proposed development’s context within the

	streetscape. Additionally, the uppermost level of the building is set back more than 10m from the street, which helps reduce impacts on the streetscape.
b) <i>to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	The proposed development does affect any significant or iconic views currently obtained through the site. The impacts on privacy or visual intrusion are considered to be consistent with a compliant height proposal. Overshadowing impacts from the additional height are considered to be minor and do not unreasonably affect the adjoining properties.
c) <i>to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	It is considered that the architectural design will provide a positive impact on the visual amenity of this redeveloping mixed use area.
d) <i>to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,</i>	There are no significant views from adjacent development or public open spaces near or around the site.
e) <i>to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,</i>	The development is compliant with the allowable FSR under the <i>WLEP</i> and the required landscaping area under the <i>ADG (SEPP Housing 2021)</i> . Consequently, the height, while exceeding the maximum permissible height over part of the building footprint, is considered to be reasonably consistent with the redevelopment potential of the land.
f) <i>to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	The proposed height is considered to be sufficiently consistent with the existing building heights on adjoining sites and with the existing and desired future character of the locality.
g) <i>to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	The proposed height does not impact on the primacy of Chatswood City Centre.
h) <i>to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	The proposed height is consistent with the transition of heights in north of Albert avenue (90m) to south of Ellis Street (35m).

Consistency with the objectives of the B4 Mixed-Use Zone:

Consistency of the proposed development with the Zone’s objectives is discussed below:

Zone Objective	Response
To provide a mixture of compatible land uses.	The proposal is for a mixed use development with, three levels of retail/commercial use with residential apartments above. The proposal, therefore, is consistent with the mixed use nature of the land.
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The site is highly accessible, as it is in close proximity to Chatswood train and metro stations, as well as major arterial roads such as the Pacific Highway and Mowbray Road. The development proposes, bicycle parking and car parking spaces fewer than the required number of spaces. Therefore, it aims to encourage a shift towards walking, cycling, and the use of public and shared transportation.
To allow for city living on the edges of the city centre of Chatswood, which supports public transport use, shopping, business and recreational services that contribute to the vitality of the centre, without undermining its commercial role.	The subject site is located within the central periphery of the Chatswood CBD, is proposed for a mixed use development. The development includes 3 levels of retail/commercial space and 28 residential apartments, all contributing positively to the city centre of Chatswood.

Clause 4.6 4) b) The Concurrence of the Secretary has been obtained

Based on the above considerations, the proposed variation to the development standard is acceptable. Variation of the standard is considered to be in public interest given that the relevant objectives of the zone and standard are met by the proposal despite its numerical non-compliance with the development standard.

The variation is not considered to raise any matter of regional and state significance, and concurrence of the Secretary in approving this variation can be assumed.

ATTACHMENT 6 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

**Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A**

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	Comment: The proposal satisfies the requirements of the relevant SEPPs.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	Comment: The proposal satisfies the requirements of the Draft LEP (at the time of lodgement). Now gazetted as Amendment 34 to WLEP 2012	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment: The proposal satisfies the requirements of the DCP.	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	✓
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	Comment: Conditions of consent will ensure the proposal satisfies the requirements of the regulations.	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	✓
	<ul style="list-style-type: none"> Privacy 	✓
	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓
	<ul style="list-style-type: none"> Natural hazards: Overland flowpath 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> Social impact in the locality 	✓
	<ul style="list-style-type: none"> Economic impact in the locality 	✓
	<ul style="list-style-type: none"> Site design and internal design 	✓

**Matters for Consideration Under S.4.15 (79C) EP&A Act
 Considered and Satisfactory ✓ and Not Relevant N/A**

	<ul style="list-style-type: none"> • Construction 	✓
	<ul style="list-style-type: none"> • Cumulative impacts 	✓
	Comment: The proposal does not cause detrimental impacts on surrounding properties and satisfies the objectives of the controls that inform the overall building envelope.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
	Comment: The site is suitable for the development, the assessment of which has been subjected to the rigours of a Planning Proposal and the subject application.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	✓
	<ul style="list-style-type: none"> • Submissions from public authorities 	✓
	Comment: Public submissions have been considered as part of the overall assessment of the application. Referral comments from Ausgrid , NSW Police, Sydney Trains, Sydney Metro and Water NSW have been incorporated into the consent.	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	✓
	Comment: The proposal satisfies public interest objectives, noting that it consistent with the Chatswood CBD Planning and Urban Design Strategy 2036.	

ATTACHMENT 7: SCHEDULE OF CONDITIONS

SCHEDULE

CONDITIONS OF CONSENT: (including reasons for such conditions)

CONSENT IDENTIFICATION

The following condition provides information on what forms part of the Consent.

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
DA Drawing List	DA0001	02	18/03/2024	Make
Site Plan	DA0100	01	26/04/2023	
Demolition Plan	DA1600	01	26/04/2023	
Level B3 GA	DA2007	01	26/04/2023	
Level B2 GA	DA2008	02	08/04/2023	
Level B1 GA	DA2009	02	08/04/2023	
Level B1M GA	DA2009M	03	18/03/2024	
Level 00 GA	DA2010	03	18/03/2024	
Level 01 GA	DA2011	02	08/04/2023	
Level 02 GA	DA2012	02	08/04/2023	
Level 03 GA	DA2013	02	18/03/2024	
Level 04-09 GA	DA2014	02	18/03/2024	
Level 10 GA	DA2020	02	18/03/2024	
Level 11 GA	DA2021	02	18/03/2024	
Level 12 GA	DA2022	02	18/03/2024	
Level 13 GA	DA2023	01	26/04/2023	
Roof Plan	DA2024	01	26/04/2023	
North Elevation	DA2100	01	26/04/2023	
West Elevation	DA2101	01	26/04/2023	
South Elevation	DA2103	01	26/04/2023	
East Elevation	DA2104	01	26/04/2023	
Section AA	DA2200	01	26/04/2023	
Section BB	DA2201	01	26/04/2023	
Pre & Post Adaptable Unit – 2 Bed	DA2700	01	26/04/2023	
Pre & Post Adaptable Unit – 2 Bed	DA2701	01	26/04/2023	
Landscape Plans	LA-00 to LA-06	C	26/04/2023	Studio IZ Pty Ltd

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the Environmental Planning and Assessment Act 1979;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

2. Water NSW

The following conditions from Water NSW must be complied with:

GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	<p>Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity</p> <p>Advisory Note:3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.</p>
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	<p>If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must:</p> <ul style="list-style-type: none"> (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-	All extracted groundwater must be discharged from the site in accordance

00001	with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated

	from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering
GT0150-00001	The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
GT0151-00001	Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0152-00001	This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0155-00001	The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA-2022/393 as provided by Council:

- Amended Architectural Drawing Package - 3 Ellis Street, Chatswood_Pan-287468
- 3 Ellis St, Chatswood - Groundwater Assessment Report - Aug 2023
- WaterNSW Checklist for Modelling Inputs - 3 Ellis St, Chatswood - Aug 2023
- SEE

(Reason: Ensure compliance)

3. Sydney Metro

The following conditions from Sydney Metro must be complied with:

Prior to issue of a Construction Certificate

Engineering

- 1.1 All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings, measures and recommendations detailed in the following documents:
- (a) DA Drawing List, Drawing No. DA0001, Make Architects, 26 April 2023
 - (b) Site Plan, Drawing No. DA0100, Make Architects, 26 April 2023
 - (c) Demolition Plan, Drawing No. DA1600, Make Architects, 26 April 2023
 - (d) Level B3 GA, Drawing No. DA2007, Make Architects, 26 April 2023
 - (e) Level B2 GA, Drawing No. DA2008, Make Architects, 26 April 2023
 - (f) Level B1 GA, Drawing No. DA2009, Make Architects, 26 April 2023
 - (g) Level B1M GA, Drawing No. DA2009M, Make Architects, 26 April 2023
 - (h) Level 00 GA, Drawing No. DA2010, Make Architects, 26 April 2023
 - (i) Level 01 GA, Drawing No. DA2011, Make Architects, 26 April 2023
 - (j) Level 02 GA, Drawing No. DA2012, Make Architects, 26 April 2023
 - (k) Level 03 GA, Drawing No. DA2013, Make Architects, 26 April 2023
 - (l) Level 04-09 GA, Drawing No. DA2014, Make Architects, 26 April 2023
 - (m) Level 10 GA, Drawing No. DA2020, Make Architects, 26 April 2023
 - (n) Level 11 GA, Drawing No. DA2021, Make Architects, 26 April 2023
 - (o) Level 12 GA, Drawing No. DA2022, Make Architects, 26 April 2023
 - (p) Level 13 GA, Drawing No. DA2023, Make Architects, 26 April 2023
 - (q) Roof Plan, Drawing No. DA2024, Make Architects, 26 April 2023
 - (r) North Elevation, Drawing No. DA2100, Make Architects, 26 April 2023
 - (s) West Elevation, Drawing No. DA2101, Make Architects, 26 April 2023
 - (t) South Elevation, Drawing No. DA2103, Make Architects, 26 April 2023
 - (u) East Elevation, Drawing No. DA2104, Make Architects, 26 April 2023
 - (v) Section AA, Drawing No. DA2200, Make Architects, 26 April 2023
 - (w) Section BB, Drawing No. DA2201, Make Architects, 26 April 2023
 - (x) Community Open Space Plan, Drawing No. DA2600, Make Architects, 26 April 2023
 - (y) Deep Soil Plan, Drawing No. DA2601, Make Architects, 26 April 2023
 - (z) Pre & Post Adaptable Unit – 2 Bed, Drawing No. DA2700, Make Architects, 26 April 2023
 - (aa) Pre & Post Adaptable Unit – 2 Bed, Drawing No. DA2701, Make Architects, 26 April 2023
 - (ab) Shadow Diagrams – Existing 9am – 21st June, Drawing No. DA8000, Make Architects, 26 April 2023
 - (ac) Shadow Diagrams – Existing 10am – 21st June, Drawing No. DA8001, Make Architects, 26 April 2023
 - (ad) Shadow Diagrams – Existing 11am – 21st June, Drawing No. DA8002, Make Architects, 26 April 2023
 - (ae) Shadow Diagrams – Existing 12pm – 21st June, Drawing No. DA8003, Make Architects, 26 April 2023
 - (af) Shadow Diagrams – Existing 1pm – 21st June, Drawing No. DA8004, Make Architects, 26 April 2023
 - (ag) Shadow Diagrams – Existing 2pm – 21st June, Drawing No. DA8005, Make Architects, 26 April 2023
 - (ah) Shadow Diagrams – Existing 3pm – 21st June, Drawing No. DA8006, Make Architects, 26 April 2023

- (ai) Shadow Diagrams – Proposed 9am – 21st June, Drawing No. DA8010, Make Architects, 26 April 2023
- (aj) Shadow Diagrams – Proposed 10am – 21st June, Drawing No. DA8011, Make Architects, 26 April 2023
- (ak) Shadow Diagrams – Proposed 11am – 21st June, Drawing No. DA8012, Make Architects, 26 April 2023
- (al) Shadow Diagrams – Proposed 12pm – 21st June, Drawing No. DA8013, Make Architects, 26 April 2023
- (am) Shadow Diagrams – Proposed 1pm – 21st June, Drawing No. DA8014, Make Architects, 26 April 2023
- (an) Shadow Diagrams – Proposed 2pm – 21st June, Drawing No. DA8015, Make Architects, 26 April 2023
- (ao) Shadow Diagrams – Proposed 3pm – 21st June, Drawing No. DA8016, Make Architects, 26 April 2023
- (ap) FSR Plans, Drawing No. DA9000, Make Architects, 26 April 2023
- (aq) FSR Plans, Drawing No. DA9001, Make Architects, 26 April 2023
- (ar) Locality Plan & Drawing List, DA-C01.01, Rev C, Northrop, 24 April 2023
- (as) Specifications, DA-C01.21, Rev C, Northrop, 24 April 2023
- (at) Erosion & Sediment Control Plan, DA-C02.01, Rev C, Northrop, 24 April 2023
- (au) Erosion & Sediment Control Details, DA-C02.02, Rev C, Northrop, 24 April 2023
- (av) Stormwater Management Plan – Ground Floor, DA-C03.01, Rev C, Northrop, 24 April 2023
- (aw) Stormwater Management Plan – Basement L3, DA-C03.02, Rev C, Northrop, 24 April 2023
- (ax) Stormwater Catchment Plan, DA-C04.01, Rev C, Northrop, 24 April 2023
- (ay) Civil Details, DA-C05.01, Rev C, Northrop, 24 April 2023
- (az) Longitudinal Sections, DA-C06.01, Rev A, Northrop, 24 April 2023
- (ba) Cover Sheet, LA-00, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bb) Landscape Plan – Ground Floor – Sheet 1, LA-01, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bc) Landscape Plan – Ground Floor – Sheet 2, LA-02, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bd) Landscape Plan – Level 1, LA-02, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (be) Landscape Plan – Private Terraces, LA-03, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bf) Planting Schedule, LA-04, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bg) Details and Specifications Notes, LA-05, Issue C, Studio IZ Pty Ltd, 24 April 2023
- (bh) BCA Assessment Report (BCA 2022) for DA Lodgement, Credwell, 24 April 2023
- (bi) Civil Design Report, Revision C, Northrop, 24 April 2023
- (bj) DA Acoustic Assessment, Renzo Tonin & Associates, 8 November 2022
- (bk) Disability Access Report, prepared by Inclusive Places, 27 April 2022
- (bl) Documentation for Sydney Trains, Version 1.0, Northrop, 21 April 2023
- (bm) Flooding Impact Assessment, Northrop, 24 April 2023
- (bn) Operational Waste Management Plan, Revision E, Elephants Foot, 24 April 2023
- (bo) Transport Assessment, JMT Consulting, 11 November 2022
- (bp) Urban Design Report, Make Architects, 27 April 2023

subject to any amendments to those documents required by Sydney Metro in accordance with this consent.

The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro confirming which documents (including the versions of those documents) apply to the development and the Certifier has confirmed that the construction drawings and specifications comply with those documents.

Prior to the commencement of works the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

Rail Corridor:

- 1.1 All structures must be designed, constructed and maintained so as to allow for the future operation and demolition of any part of the development without damaging or otherwise interfering with the Sydney Metro City and Southwest rail corridor or rail operations. Where any part of the development is to be retained because its demolition would damage or otherwise interfere with the Sydney Metro City and Southwest rail corridor or rail operations, that part of the development must have a minimum design life of 100 years.

Survey and services

- 1.2 Prior to the issue of a Construction Certificate:
 - (a) the Applicant must provide Sydney Metro with an accurate survey of the development and its location relative to the rail corridor boundary and any rail infrastructure. The survey is to be undertaken by a registered surveyor, to the satisfaction of Sydney Metro; and
 - (b) a registered surveyor shall peg-out the common property boundary between the development site and the rail corridor and any Sydney Metro easements to ensure that there is no encroachment by the development. A copy of the survey report indicating the location of pegs must be provided to Sydney Metro prior to the commencement of works.
- 1.3 Prior to the issue of a Construction Certificate, the Applicant must undertake a services search to establish the existence and location of any rail services and provide the results of the search to Sydney Metro. A services search must be based on current and not expired information and include information obtained through the Dial Before You Dig service. Persons performing the service search shall use equipment that will not have any impact on rail services and signaling. Should rail services be identified within the development site, the Applicant must discuss with Sydney Metro whether the services are to be relocated or incorporated within the development site.

Noise & Vibration

- 1.4 The development must:
 - (a) *comply with State Environmental Planning Policy (Transport and Infrastructure) 2021 and the NSW Department of Planning & Environment's document titled "Development Near Rail Corridors and Busy Roads - Interim Guideline" (2008) and the Sydney Metro At Grade and Elevated Sections Corridor Protection Guidelines (available from www.sydneymetro.info);*
 - (b) *be designed, constructed and maintained so as to avoid damage or other interference which may occur as a result of air-borne noise, ground-borne noise and vibration effects that may emanate from the rail corridor during rail construction and operations; and*

- (c) *not have any noise or vibration impacts on the rail corridor or rail infrastructure.*
- 1.5 The Applicant must incorporate as part of the development all the measures recommended in the acoustic assessment report DA Acoustic Report prepared by Renzo Tonin & Associates, dated 8 November 2022. A copy of the acoustic assessment report is to be provided to the Certifier and Council prior to a Construction Certificate being issued by the Certifier. The Certifier must ensure that the recommendations of the acoustic assessment report are incorporated in the construction drawings and documentation prior to issuing a Construction Certificate for the development. Electrolysis
- 1.6 Prior to the issue of a Construction Certificate, the Applicant is to engage an electrolysis expert to prepare a report on the electrolysis risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the electrolysis report to control that risk. A copy of the electrolysis report is to be provided to the Certifier with the application for a Construction Certificate. Prior to issuing a Construction Certificate for the development, the Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation.

Design

- 1.7 Prior to the issue of a Construction Certificate, the Applicant must ensure that the development incorporates appropriate anti-graffiti measures, and obtain written confirmation from Sydney Metro that such measures have been incorporated.
- 1.8 Given the possibility of objects falling, being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) of the development that are within 20 metres of and face the rail corridor, the development must have measures installed, to the satisfaction of Sydney Metro (eg awning windows, louvres, enclosed balconies, window restrictors, rainwater piped down the face of the building etc) which prevent objects falling into the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.9 The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the light rail operator. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.10 The roots and foliage of trees planted beside the rail corridor as part of the development must not impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Metro. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Construction

- 1.11 No work is permitted within the rail corridor, or any easements which benefit Sydney Metro, at any time, unless the prior approval of, or an Agreement with, Sydney Metro has been obtained by the Applicant. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.12 No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut

rock faces, are to be installed in the rail corridor, Sydney Metro property or easements. The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

1.13 Prior to the issuing of a Construction Certificate, the following information must be submitted to Sydney Metro for review and endorsement:

- a) machinery to be used during excavation/construction;
- b) demolition, excavation and construction methodology and staging;

The Certifier must not issue a Construction Certificate for the development until it has received written confirmation from Sydney Metro that this condition has been satisfied.

1.14 If required by Sydney Metro, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements for the proposed works are to be submitted to Sydney Metro for review and endorsement regarding impacts on the rail corridor. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

1.15 If required by Sydney Metro, a track monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Metro for review and endorsement prior to the issuing of a Construction Certificate. The Certifier must not issue a Construction Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.

1.16 Prior to the issuing of a Construction Certificate, the Applicant must submit to Sydney Metro a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Metro requirements. If required by Sydney Metro, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Metro requirements. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from the Sydney Metro that this condition has been satisfied.

1.17 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Metro's Corridor Protection Team to determine the need for public liability insurance cover and the level of insurance required. If insurance cover is deemed necessary, the Applicant must obtain insurance for the sum determined by Sydney Metro and such insurance shall not contain any exclusion in relation to works on or near the rail corridor or rail infrastructure and must be maintained for the period specified by Sydney Metro. Prior to issuing a Construction Certificate for the development, the Certifier must witness written proof of any insurance required by Sydney Metro in accordance with this condition, including the written advice of Sydney Metro to the Applicant regarding the level of insurance required.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro City or Southwest rail corridor which is not in the public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

1.18 If required by Sydney Metro, prior to the issue of a Construction Certificate the Applicant must contact the Sydney Metro Corridor Protection Team to determine the need for the lodgment of a bond or bank guarantee for the duration of the works and the sum of any required bond or bank guarantee. Prior to issuing a Construction Certificate for the development, the Certifier must witness written confirmation from Sydney Metro that the Applicant has lodged any bond or bank guarantee required by this condition.

Reason: construction of the proposed development presents a risk of potential damage to the Sydney Metro City and Southwest rail corridor which is not in the

public interest. This risk of damage to public infrastructure must be appropriately managed and mitigated.

- 1.19 Prior to the issue of a Construction Certificate, the Applicant must prepare and provide to Sydney Metro for review and endorsement a hydrologic assessment report demonstrating that any dewatering during construction will not have any adverse settlement impacts on the rail corridor. The Certifier must not issue a Construction Certificate until this report has been endorsed by Sydney Metro in writing.

Drainage

- 1.20 The Applicant must ensure that all drainage from the development is adequately disposed of and managed and must ensure that no drainage is discharged into the railway corridor unless prior written approval has been obtained from Sydney Metro. The Certifier must not to issue a Construction Certificate or Occupation Certificate for the development unless this condition has been satisfied.

Documentation

- 1.21 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Construction Certificate.

Prior to commencement of works Construction

- 1.22 Prior to the commencement of any works, appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Metro prior to the fencing work being undertaken.

During construction Supervision

- 1.23 Unless advised by Sydney Metro in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

Construction

- 1.24 No metal ladders, tapes, plant, machinery, or conductive material is to be used within 6 horizontal metres of any live electrical equipment associated with the rail corridor and rail infrastructure. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.
- 1.25 No scaffolding or hoarding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Metro. To obtain approval, the Applicant must submit details of the scaffolding and/or hoarding, the means of erecting and securing the scaffolding and/or hoarding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Scaffolding and/or hoarding shall also not be erected without isolation and protection panels unless agreed to by Sydney Metro in writing.
- 1.26 Excess soil from the construction works is not allowed to enter, be spread or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of by the Applicant.

Consultation

- 1.27 The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Metro in writing), who:

- (a) *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Metro;*
 - (b) *acts as the authorised representative of the Applicant; and*
 - (c) *is available (or has a delegate notified in writing to Sydney Metro that is available) on a 7 day a week basis to liaise with the representative of Sydney Metro, as notified to the Applicant.*
- 1.28 Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Metro in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Metro in relation to the works.
- 1.29 Where a condition of consent requires consultation with Sydney Metro, the Applicant shall forward all requests and/or documentation to the Sydney Metro Corridor Protection team.

Drainage

- 1.30 The Applicant must not allow any person to do any act or thing which allows stormwater, surface run off or drainage to pass over, through or under the development site onto the railway corridor.
- 1.31 The Applicant must ensure that all existing and future drainage works on the development site will be directed into the appropriate local council or approved drainage system.
- 1.32 The Applicant must ensure that during works no water collects on or near the railway corridor. Should water be allowed to pond adjacent to rail infrastructure facilities and service is interrupted, the Applicant shall be liable for any Sydney Metro expenditure involved with restoring or maintaining alternative services.
- 1.33 Rainwater from the roof of the development must not be projected and/or fall into the rail corridor and must be piped down the face of the building which faces the rail corridor.

Inspections

- 1.34 If required by Sydney Metro, the Applicant must give Sydney Metro written notice at least 5 business days before any of the following events occur within 25 metres of the rail corridor:
- (a) *site investigations;*
 - (b) *foundation, pile and anchor set out;*
 - (c) *set out of any other structures below ground surface level or structures which will transfer any load or bearing;*
 - (d) *foundation, pile and anchor excavation;*
 - (e) *other excavation;*
 - (f) *surveying of foundation, pile and anchor excavation and surveying of as- built excavations;*
 - (g) *other concreting; or*
 - (h) *any other event that Sydney Metro has notified to the Applicant in writing*

so that Sydney Metro may inspect the carrying out or completion of those works on the development site.

- 1.35 If required by Sydney Metro, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Metro, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey(s) will establish the extent of any existing damage and enable any deterioration during construction to be observed and rectified at

the Applicant's cost. The submission of a detailed dilapidation report by the Applicant for review and approval by Sydney Metro will be required within 10 days following the undertaking of any joint inspection, unless otherwise notified by Sydney Metro in writing.

Prior to the issue of an Occupation Certificate

Noise and Vibration

- 1.36 Prior to the issue of an Occupation Certificate, an acoustic assessment report must be prepared and submitted to the Certifying Authority, Council and Sydney Metro certifying that the completed development meets the requirements of:
- (a) *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
 - (b) *the Department of Planning, Infrastructure and Environment's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines"; and*
 - (c) *any other noise and vibration requirements imposed by this consent.*
- 1.37 The acoustic report must demonstrate testing of external and internal noise levels for the completed development and ensure that external noise levels are representative of the typical maximum levels that may occur at the development and internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent

Fencing

- 1.38 The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issue of an Occupation Certificate, the Applicant shall liaise with Sydney Metro regarding the adequacy of any existing fencing along the rail corridor boundary or the need for the design and erection of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Metro prior to the fencing work being undertaken.

Documentation

- 1.39 Prior to the issue of an Occupation Certificate, the Applicant is to submit as-built drawings to Sydney Metro and Council. The as-built drawings are to be endorsed by a registered surveyor confirming that there has been no encroachment into the rail corridor or Sydney Metro easements, unless agreed to by Sydney Metro in writing. The Certifier must not issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied.
- 1.40 Copies of any certificates, drawings, approvals or documents endorsed by, given to or issued by Sydney Metro must be submitted to Council for its records prior to the issue of any Occupation Certificate.

Inspections

- 1.41 If required by Sydney Metro, prior to the issue of an Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the development is to be carried out by representatives from Sydney Metro and the Applicant and a dilapidation survey prepared. The dilapidation survey will establish the extent of any existing damage and enable any deterioration during operation of the development to be observed. The Certifier is not to issue an Occupation Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Maintenance

- 1.42 Prior to the issue of an Occupation Certificate, the Applicant must provide to Sydney Metro for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Certifier must not to issue an Occupation Certificate until written confirmation has been received from Sydney Metro that this condition has been satisfied. The maintenance plan must be implemented for the life of the approved development.

General Inspections

- 1.43 At any time during the construction of the development, Sydney Metro and persons authorised by those entities may give reasonable notice to the Applicant or the Applicant's principal contractor that Sydney Metro or persons authorised by that entity seek to:
- (a) inspect the development site and all works and structures that may impact on the rail corridor, including at specified "hold points" in the construction of the development; and
 - (b) attend on-site meetings with the Applicant and its contractors,
- to enable Sydney Metro to determine whether the development has been or is being constructed and maintained in accordance with all approved plans and this development consent.

Environmental Protection and Contamination

- 1.44 During all stages of the development, including construction and operation of the development, no form of pollution or contamination should enter the railway corridor as a result of development's activities. Any form of pollution or contamination that occur in the rail corridor as a consequence of the development activities shall remain the full responsibility of the owner of the development.
- 1.45 Sydney Metro may direct the owner of the development to remove or remediate any physical pollution or contamination caused by the development's activities from the rail corridor at the owner's cost, and within any timeframe required by Sydney Metro, acting reasonably. The owner of the development must obtain written approval from Sydney Metro (which may be subject to conditions) before entering the rail corridor to remove or remediate any form of pollution or contamination.

Other

- 1.46 Any conditions or other requirements imposed by Sydney Metro as part of its approval/endorsement of any documents provided by the Applicant to Sydney Metro in accordance with these conditions of consent must also be complied with by the Applicant when implementing any approved/endorsed documents, plans, reports during the construction and operation of the development (as applicable).
- 1.47 Where a condition of consent requires Sydney Metro endorsement or approval, the Certifier must not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates by the Certifier dealing with specific works and compliance conditions can only occur subject to written confirmation from Sydney Metro.
- 1.48 All reasonable Sydney Metro costs associated with review of plans, designs and legal must be borne by the applicant.
(Reason: Ensure compliance)

4. Sydney Trains

The following conditions from Sydney Trains must be complied with:

- 1) Unless amendments are required in order to obtain approval/certification/compliance from Sydney Trains in relation to any of the Sydney Trains related conditions of consent, all excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings, and recommendations as detailed in the following documents:
 - i. **Memo for responses to Sydney Trains RFI** project no. 91234.03, prepared by Douglas Partners, issued 26 September 2023.
 - ii. **DA Acoustic Assessment** reference TM802-01F03, revision 3, prepared by MPG AU Pty Ltd, issued 24 November 2023.
 - iii. **Addendum to DA Acoustic Assessment** reference TM802-02F01, revision 4, prepared by MPG AU Pty Ltd, issued 24 November 2023.
 - iv. **TfNSW Geotechnical Impact Assessment** project no. 91234.01, revision 5, prepared by Douglas Partners, issued January 2024.
 - v. **Survey Plans** titled "*Site Analysis Survey Over SP2715 Being No 3 Ellis St Chatswood*" drawings 22-196P3, sheets 1-3, prepared by JRK Surveys, issued 14 February 2023.
 - vi. **Plans** titled "*Plan of Sydney Metro Rail Corridor and reserves relative to SP2715 known as no. 3 Ellis Street, Chatswood*" reference 51970 001DT, sheets 1-2, prepared by LTS Survey, issued 3 March 2023.
 - vii. **Geotechnical Email Advice** prepared by Douglas Partners, issued 30 August 2023.
 - viii. **Supplementary Geotechnical Investigation** reference 91234.03, revision 1, prepared by Douglas Partners, issued 2 August 2023.
 - ix. **Van Der Meer Addendum Report for Shoring** prepared by Van Der Meer, issued 18 September 2023.
 - x. **Engineering Report** titled "*Documentation for Sydney Trains*" reference NL172620, version 1.0, prepared by Northrop, issued 21 April 2023.
 - xi. **Engineering Assessment Report** job no. SY230043, revision 2, prepared by Van Der Meer, issued 7 September 2023.
 - xii. **Structural Drawings** reference NL172620, prepared by Northrop:
 - a. Foundation Plan, drawing DA.S.1.00, revision 4, dated 20 April 2023.
 - b. Shoring Plan, drawing DA.S.1.01, revision 4, dated 20 April 2023.
 - c. Shoring Section 1, drawing DA.S.1.03, revision 1, dated 10 March 2023.
 - xiii. **Engineering Retention Assessment Report Drawings**, reference SY230-043, sheets 1- 4, drawings S100-01-S100-04, revision A, prepared by Van Der Meer, dated 8 September 2023.

The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to **now apply** or are **superseded** as a result of the compliance with the Sydney Trains related conditions of consent. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Certifier is to provide verification to Sydney Trains that this condition has been complied with.

- 2) Prior to the issuing of a Construction Certificate, the following final version rail specific items are to be submitted to Sydney Trains for review, comment, and written endorsement:
 - Machinery to be used during excavation/construction.
 - Demolition, excavation, and construction methodology and staging.

The Certifier is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- 3) Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Certifier is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- 4) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Certifier with the application for a Construction Certificate. The Certifier must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- 5) If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 6) Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.
- 7) The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 8) Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows, and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (e.g., awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Certifier is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney

Trains in writing, scaffolding shall not be erected without isolation and protection panels.

- 9) During all stages of the development, the Applicant must take extreme care to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- 10) Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.
- 11) The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.
- 12) Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.
- 13) Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Certifier is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 14) Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority and Council certifying that the completed development meets the requirements of State Environmental Planning Policy (Transport and Infrastructure) 2021 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such a report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development, and that internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.
- 15) If required by Sydney Trains, a risk analysis, which shall determine the required level of derailment protection (if any), shall be carried out in consultation with Sydney Trains. This risk analysis will determine the redundancy requirements or the minimum collision loads specified in Australian Standard AS5100 that needs to be complied with. The risk assessment is to be prepared in accordance with the Sydney Trains Safety Management System. The Certifier shall not issue the Construction Certificate until it has received written confirmation from Sydney Trains that the risk analysis has been prepared and the Certifier has also confirmed that the measures recommended in this risk analysis have been indicated on the Construction Drawings.
- 16) If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of

the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.

- 17)** If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Certifier is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- 18)** If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Certifier must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.
- 19)** If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Certifier must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- 20)** Sydney Trains or Transport for NSW, and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- 21)** The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:

 - oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - acts as the authorised representative of the Applicant; and
 - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

- 22) Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- 23) Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is Illawarra Interface, and they can be contacted via email on Illawarra_Interface@transport.nsw.gov.au.
- 24) Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.
- 25) Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Certifier is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

(Reason: Ensure compliance)

5. NSW Police

The following conditions from NSW Police must be complied with:

1. The site will need to be clearly identified through a street number and be visible from the street. This will enable all emergency services to locate the premises.
2. Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. "This site is under 24 hour video surveillance".
3. Appropriated modifications should be made where necessary to accommodate the increase in traffic congestion on surrounding streets and intersections.
4. Bicycle parking should be in a secure area and covered with CCTV cameras.
5. Mail boxes and parcel delivery areas should be secure and covered with CCTV cameras. If possible, a secure method for parcel delivery should be set up in the building.
6. Storage cages should be made of suitably robust materials that can not easily be cut open and should be covered by CCTV cameras. Signs should be placed in the area warning residents not to leave valuable items in storage cages.
7. Lighting within the site will need to be positioned in a way to reduce opportunities for offenders to commit crime i.e. vandalism and graffiti. The lighting will need to be sufficient to enable people to identify signs of

intoxication and anti social behaviour. The lighting will also need to be sufficient to support images obtained from any CCTV footage. Please note that some low or high pressure lighting is not compatible with surveillance systems.

8. Doors should be of solid construction and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards – Lock Sets AS:4145.
9. Windows within the site should be fitted with quality window lock sets that comply with the Australian Standards – Lock Sets AS:4145. Glass within doors and windows should be reinforced to restrict unauthorised access. The glass can be either fitted with a shatter-resistant film or laminated to withstand physical attacks.
10. An electronic surveillance system should be included to provide maximum surveillance of all areas of the site including entry/exits, car parks, bicycle parking, mail areas and common areas. Cameras should also cover public footpath areas around the premises. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering.
11. An emergency control and evacuation plan should be implemented within the site and displayed for the information of residents.
(Reason: Ensure compliance)

6. Ausgrid

The following conditions from Ausgrid must be complied with:

Ausgrid Overhead Powerlines are in the vicinity of the development

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances”. This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

Should you have any enquiries, please contact Ausgrid at development@ausgrid.com.au
(Reason: Ensure compliance)

PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with before any Construction Certificate Application is made to the Certifying Authority.

7. Submit the Following Information to Willoughby City Council

Prior to the lodgement of an application for a construction certificate, the applicant shall submit the following information to the Director of Planning & Infrastructure at Council for its review, comment and written approval. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifier for the application of a construction certificate.

- a) a Demolition and Construction Waste Management Plan
- b) a revised Operational Waste Management Plan that addresses all the Conditions and retains ongoing compliance with the Development Application including *WDCP 2023* with the exception of:
 - Kerbside presentation of bins and bulky waste, unless Council provides an SRV that can enter the development; at which time the development will be required to cater for onsite collection.
 - Twice weekly collection for general waste with kerbside presentation of 660L bins.
 - Garden organics bin generation, based on *WDCP 2006* (Part C.8 and Attachment 16).
- c) Detailed Public Art Plan:

The detailed public art plan must be developed and implemented in accordance with Council's Public Art Policy and Procedures and Guidelines.

The Detailed Public Art Plan should include the public art concept/s illustrated in such a way that the form, dimensions, materials and location of the proposed artwork are clearly communicated. It should include a brief statement explaining the rationale behind the artwork and should demonstrate how the proposed work will relate to the proposed development and site.

It should provide a program for documentation, fabrication and installation and integration with the construction program for the development. It should also provide engineer's drawings, expected maintenance requirements and deaccessioning agreements.

The Public Art Plan will be reviewed by the Public Art Advisory Panel for comment and any recommendations will be recorded and passed on to the developer.

(Reason: Ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

8. S7.12 Contribution

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of \$767,145.09 for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on 3% of the Estimated Development Cost, being \$25,571,503 at 23/12/2022 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the Estimated Development Cost, is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

- \$C_o = the original development contribution determined by the Council based on a percentage of the Estimated Development Cost, set out in the Contributions Plan
- Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment
- Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Prior to payment Council can provide the value of the indexed levy.
Copies of the *Willoughby Local Infrastructure Contributions Plan* are available for inspection online at www.willoughby.nsw.gov.au
(Reason: Statutory requirement)

9. Amendments

Prior to the issue of the construction certificate, the applicant shall submit plans and specifications satisfying the following requirements shall be submitted to the Certifying Authority for the application of a construction certificate.

- a) The 660L bins for kerbside collection are to be placed at minimum 2-metre away from the edge of the eastern and western kerb lines adjacent to parking access crossover. This is to ensure adequate line of sight are available among motorists entering the basement carpark and pedestrians/ cyclists along footpath. The applicant is to arrange relocation of the new street tree or NBN box if required.
(Reason: Public Safety)
- b) Swept path diagram is to be provided to indicate reverse and turning movements along Ellis Street. It is to demonstrate that the collection vehicles are able to manoeuvre at the eastern end of Ellis St.
(Reason: Vehicle access and manoeuvrability)
- c) The proposed changes of location and timed restriction to No Parking sign to accommodate the collection timings will require approval from the Traffic Committee. This approval must be obtained prior to the issue of the construction certificate.
(Reason: Ensure compliance)
- d) To mitigate visual privacy impacts to and from the development, all habitable room windows on the western and eastern elevations shall consist of obscure glazing to a minimum height of 1.6m measured from the finished floor level of their respective floor.
(Reason: ensure compliance and visual privacy)

10. External Finishes – Solar Absorptance

The external roofing, glazing and walls of the proposed dwelling are to be of minimal reflectance so as to avoid nuisance in the form of glare or reflections to the occupants of nearby buildings, pedestrians and/or motorists. Details demonstrating compliance are to be submitted with the Construction Certificate application.
(Reason: Visual amenity)

11. BASIX

Where required, the BASIX certificate shall be updated to reflect any changes resulting from this consent. The updated BASIX certificate shall be submitted with the construction certificate application.
(Reason: Environmental Sustainability)

12. Local Infrastructure Contributions

For development that involves subdivision and/or building work, any contribution required under Council's Local Infrastructure Plan must be paid to Council prior to the issue of the subdivision certificate or first construction certificate, whichever occurs first.
(Reason: Statutory requirement)

13. Access, Mobility and Adaptable Housing

Prior to the issue of a Construction Certificate, to provide suitable access for people with disabilities, the development shall comply with Disability (Access to Premises – Buildings) Standards 2010. Details demonstrating compliance must be submitted with the Construction Certificate application.
(Reason: Access and Compliance)

14. Right-of-Way

Prior to the issue of the Construction Certificate the Architectural and Landscape Plans shall notate that a 3m wide public right-of-way along the western boundary, for the entire length and a 2m wide public right-of-way along the front boundary (fronting Ellis Street), for the entire frontage, are to be registered over the site, and that these right-of-way/s will be registered prior to the issue of the Occupation Certificate. The wording of the right-of way must be provided to Council and written approval obtained from Council prior to the issue of the Construction Certificate. (Reason: Compliance and Public Amenity)
(Reason: Compliance and Public Amenity)

15. Planning Agreement

Prior to the issue of first Construction Certificate, the obligations under the Planning Agreement executed on 11 May 2022 relating to this development are to be satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.
(Reason: Ensure compliance)

16. Adaptable Units

Adaptable residential units for disabled persons are to be provided at a rate of 50% of units (total 14units). Each adaptable unit is to be nominated on the Construction Certificate drawings. At least 3 disabled car spaces are to be provided for the adaptable units.
(Reason: Compliance, universal design)

17. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings identified as the 4BED 02-A01 unit, at Level 02 GA, to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the Construction Certificate.

The terms of this agreement must be to the satisfaction of the Council and must include a provision to the effect that the transfer of the dwelling is to be completed within two months of the registration of any subdivision of the development creating the areas to be dedicated and within 6 months of the issue of an Occupation Certificate. The applicant must agree to pay the Council's reasonable legal costs in satisfying itself that the agreement is appropriate, and a provision to this effect is to be included in the agreement.

The construction certificate plans should demonstrate that the physical requirements specified in the Housing Transfer Deed are satisfied.
(Reason: Ensure compliance)

18. Affordable Housing Fittings and Finishes

Prior to the issue of the Construction Certificate, the applicant is to submit to the Council details of all internal fittings and finishes of the affordable housing dwellings. The applicant is responsible for obtaining written confirmation from Council that it is satisfied that the internal fittings and finishes are at the same standard as other dwellings within the development.

(Reason: Amenity)

19. Fibre-Ready Facilities and Telecoms Infrastructure

Prior to the issue of a Construction Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifier that arrangements have been made for:

(a) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as 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/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note: Real estate development project has the meanings given in section 372Q of the Telecommunications Act).

(Reason: Compliance)

20. Sydney Water 'Tap In'

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to "Sydney Water Tap In" to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.

(Reason: Ensure compliance)

21. Damage Deposit

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$153,000** (GST Exempt) to Council against possible damage to Council's assets and any infrastructure within the road reserve/footway during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$250** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

Total Payable = \$153,000 + \$250 = \$153,250

(Reason: Protection of public asset)

22. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of any proposed temporary ground anchors prior to issue of the Construction Certificate. Permits are to be obtained from Council for any temporary ground anchors to be installed within the road reserve. Copies of the permission shall be sent to Council. A Temporary Ground Anchor Permit is to be obtained from Council for any ground anchors proposed to be installed in Council's Road Reserve. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

23. Stormwater to Street Drainage via Reinforced Concrete Pipe (RCP)

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in Ellis Street via a 375mm dia Class 4 RCP in accordance with Council's specification. A grated drainage pit (min. 600mm x 600mm) shall be provided within the property and adjacent to the boundary prior to discharging to the Council's drainage system. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site are to be submitted to Council for approval prior to the issue of the Construction Certificate.

(Reason: Prevent nuisance flooding)

24. Analysis of Outlet Condition

The capacity of the outlet pipe to the Council system shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that the outlet from the OSD system is above the downstream water level for the 1%AEP storm event. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to the certifier for approval prior to the issue of the Construction Certificate.

(Reason: Prevent property damage)

25. Detailed Stormwater Management Plan (SWMP)

Prior to the issue of the Construction Certificate, submit to the Certifier for approval, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and in accordance with the Northrop Drawings NL172620-DA DA-C03.01/C, DA-C03.02/C, DA-C04.01/C and DAC05.01/C, amended as follows:

- Deletion of the "discharge control pit"
- Access points provided over the outlet, at the opposite corner of the tank and as required to provide safe access in accordance with Safety in Design and Confined Space requirements. All access points are to be located in common areas.

All drawings shall comply with Part I of Council's Development Control Plan and Technical Standard 1, AS/NSZ3500.3 – *Plumbing and Drainage Code* and National Construction Code. The plans are to include an on-site stormwater detention system with a minimum volume of 27m³ and a water quality improvement system. Runoff from the vehicle access ramps, the loading dock and basement parking areas shall all drain to a treatment device that targets hydrocarbons.

(Reason: Ensure compliance)

26. Basement Pumpout Drainage System

Prior to the issue of the Construction Certificate, the applicant shall submit, for approval by the Certifier, detailed stormwater management plans in relation to the pump-out drainage system. The construction drawings and specifications shall be generally in accordance with the approved stormwater management plans with the following requirements:

- (a) The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- (b) Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1% Annual Exceedance Probability storm event 5-minutes duration of the area draining into the system, whichever is greater.
- (c) An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.
- (d) The volume of the pump-out tank shall be designed with a minimum storage capacity equivalent to the runoff volume generated from of the area draining into the tank for the 1% Annual Exceedance Probability storm event for 2-hours duration.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part I of Council's Development Control Plan, Technical Standard 1, AS/NZS 3500.3 – *Plumbing and Drainage Code* and the National Construction Code.

(Reason: Prevent nuisance flooding)

27. Construction Management Plan (CMP)

Prior to the issue of the Construction Certificate, submit, for approval by the Certifier, detailed Construction Management Plan (CMP). The CMP shall address:

- (a) Construction vehicles access to and egress from the site
- (b) Parking for construction vehicles
- (c) Locations of site office, accommodation and the storage of major materials related to the project
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets
- (e) Location and extent of proposed builder's hoarding and Work Zones
- (f) Tree protection management measures for all protected and retained trees.

(Reason: Compliance)

28. Design of Works in Public Road (Roads Act Approval)

Prior to issue of any Construction Certificate, the applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- (a) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) towards the kerb for the full frontage of the development site in Ellis Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- (b) Reconstruction of existing kerb and gutter for the full frontage of the development site in Ellis Street in accordance with Council's specifications and Standard Drawing SD105.
- (c) Reconstruction of the existing road pavement 4.5m wide for the full frontage of the development site in Ellis Street in accordance with Council's specifications.
- (d) Construction of a 6.2 metres wide vehicular crossing in Ellis Street in accordance with Council's specification and Standard Drawings SD105. The eastern edge of the crossing is to be located a minimum of 1.2m off the side boundary of the property
- (e) Construction of a stormwater drainage works to connect the site stormwater drainage system to the existing Council system. All new stormwater pipes are to be 375mm diameter Class 4 RCP and new kerb inlets pits to include a 1.8m minimum lintel.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of the approved plans.

Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.

(Reason: Ensure compliance)

29. Driveway Longsection

Prior to issue of the Construction Certificate and in order to assess the susceptibility of vehicles to scraping as they pass over the proposed access driveway the applicant shall submit longitudinal sections for approval by the Certifying Authority along each side of the proposed vehicular access path drawn at 1:20 Scale. The longitudinal sections shall include the following: -

- (a) Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm wide and back of layback is 100mm above the gutter invert.
- (b) Both existing and proposed levels (in AHD) and gradients represented in percentage (%) of the vehicular crossing and driveway.
- (c) Crossfall on road pavement shall be shown on long sections.

The design shall be prepared by a suitably qualified civil engineer using Council's standard vehicle profile (SD100). All driveway grades and transitions shall comply with AS/NZS 2890.1 -2004 and Council's specifications.

The new crossing is to be 6.2 metres wide with no splays and be constructed at right angle to street kerb. The footpath/footpath zone which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. For the design levels of the vehicular crossing at the property boundary, the following shall be complied with, unless written approval is gained from Council for alternate levels:

- (d) At back of layback – 100 mm above and parallel to the gutter invert.
- (e) At property boundary – 160mm above and parallel to the gutter invert.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

(Reason: Safe vehicular access)

30. OSD/Rainwater Tank Design

The design of all rainwater/OSD tanks shall comply with the requirements of the NSW Work Health and Safety Regulation 2017, to minimise risks associated with confined spaces. The design shall also consider “Safety in Design” requirements. Prior to issue of a Construction Certificate, a suitably qualified person shall certify that the design meets these requirements.

(Reason: Safe access to tanks)

31. Vehicle Access and Manoeuvring – Engineer’s Certification

Prior to the issue of the Construction Certificate, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the design of vehicular access and manoeuvring for the development. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- (a) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to the underside of cars.
- (b) That a maximum gradient of 5% is provided for the first 6 metres from the property’s front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (c) That the proposed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.
- (d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.7 of AS 2890.6.
- (e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (f) That accessible parking spaces, including spaces provided for adaptable units, provide the required shared zones and bollard in compliance with AS 2890.6.
- (g) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site (minimum SRV) has been provided for the loading area and the path between the frontage road and the loading area.

- (h) Simultaneous manoeuvring of B99 and B85 vehicles including the clearance lines for each vehicle, in accordance with AS2890.1, is provided between the frontage road and the junction with the aisle to the loading bay..
- (i) That manoeuvring of the largest vehicle using the site (minimum SRV) is provided between the frontage road and the loading bay, including clearance in accordance with AS 2890.2.
- (j) That a traffic management system and waiting / passing spaces are provided for all locations where a B99 and a B85 vehicle are not able to pass on all circulation aisles.

(Reason: Ensure compliance)

32. Finish Surface Levels Along the Street Boundary

Prior to the issue of a Construction Certificate, finished surface levels for all internal works along the street boundary, including finish floor levels, driveways, car spaces, landscaping, drainage structures etc., must be shown on the plans issued for construction. The development's internal surface levels along the street boundary must be consistent with the public domain civil works plans approved by Council under the *Roads Act (1993)*. Any changes required to the finish floor levels approved under this development consent may require an application under S4.55 of the EP&A Act.

(Reason: Ensure compliance)

33. Wind Treatment

In order to minimise the effects of wind on the proposed building, the development shall be designed and constructed to incorporate the recommended wind mitigation treatment strategies into the design from Section 5 of the Pedestrian Wind Environment Statement prepared by Windtech Consultants, WG647-03F02(rev1), dated 15 November 2022 as a minimum.

(Reason: Amenity)

34. Amended plans

Prior to the issue of a Construction Certificate, submit to Council for approval amended architectural plans that show:

- The eastern edge of the vehicle crossing for the site located a minimum of 1.2m off the eastern site boundary, with the edge of the crossing at 90° to the kerb and gutter.
- The vehicle crossing has a maximum width of 6.2m.
- The driveway between the front boundary and the junction with the loading bay with a minimum width of 5.5m between kerbs and 6.1m between side walls.

(Reason: Pedestrian and vehicle safety)

35. Tree Protection Plan

- (a) Submit to the registered certifier a Tree Protection Plan for approval prior to issue of a construction certificate.
- (b) The Tree Protection Plan is to be prepared by a qualified Arborist with minimum qualification AQF Level 5.
- (c) Tree Protection Plan shall address tree protection and management of all trees to be retained (including those on adjoining properties) in accordance with AS 4970-2009 'Protection of trees on development sites' and clearly mark

tree protection zones as well as tree protection measures and fencing.
(Reason: Tree protection)

36. Amended Landscape Plans

Prior to the issue of a Construction Certificate, the following details must be shown on amended landscape plans:

Three (3) additional trees to be planted within the deep soil zones; two (2) trees in the NW rear corner, one (1) tree within the front setback.

The trees shall be Australian native species capable of a mature height at least 10m, with a minimum pot size of 100L.
(Reason: Landscape amenity)

37. Resident Disposal of All Waste Types

Prior to the issue of the Construction Certificate, the Operational Waste Management Plan with supporting drawings must clearly indicate the carting routes for residents to their internal storage areas for all waste types, including garbage, recycling, garden organics and bulky waste to ensure that it is safe and efficient and compliant with *WDCP 2023* (Section 2.1 and Section 3.1).
(Reason: Compliance)

38. Waste Storage

Prior to the issue of the Construction Certificate, the drawings must clearly indicate the basement waste storage area spaces, excluding any equipment, in accordance with *WDCP 2023* (Section 3.7), except for garden organics which may be based on *WDCP 2006* (Part C.8 and Attachment 16):

- Commercial bins: $\geq 5.6\text{m}^2$
- Residential (calculated below):
 - Bin storage area: $\geq 20.1\text{m}^2$
 - General waste: 4.1m^2
 - Recycling: 8.2m^2
 - Garden organics: 7.8m^2
 - Bulky waste collection room: $\geq 10\text{m}^2$.

Residential Bin type	WDCP 2012	WDCP 2023
Volume capacity required per unit		
General waste	-	140L/unit/week
Comingled recycling	-	120L/unit/week
Garden organics	30L/unit/week	-

(Reason: Compliance)

39. Waste Compactor

The drawings must clearly show a compactor to compress the waste into smaller collection containers, in accordance with *WDCP 2023* (Section 2.1). Full details to be submitted for approval by the Certifier prior to the issue of the Construction Certificate.

(Reason: Compliance)

40. Kerbside Collection

Prior to the issue of the Construction Certificate, the Operational Waste Management Plan, must show a drawing of the kerbside with all features of the kerbside space shown. The drawing must indicate in accordance with *WDCP 2023* (Section 3.12 and Section 3.13):

- A safe, level and uninterrupted kerbside space for bin presentation aligning with the number of bins required and 10m² of bulky waste; and
- The location for the collection truck to cater for Council’s waste vehicle plus 2m space to load and unload behind the waste vehicle.

(Reason: Compliance/public health and safety)

41. Mechanical Ventilation – Provisions for Future Use of Commercial/Retail Tenancy

The base building design shall include provisions for the installation of mechanical ventilation to any commercial/retail tenancy where it may be approved to be used as a food premises or any other use which requires mechanical ventilation. The provisions shall allow any mechanical ventilation system installed to discharge vertically and comply with the requirements of the National Construction Code and any relevant Australian Standard.

(Reason: Amenity/Ensure compliance)

42. Internal Noise Levels Residential

To minimise the noise intrusion from any external noise source, all new building work shall be designed and constructed to comply with the following criteria with windows and doors closed:

Internal Space	Time Period	Criteria L _{Aeq} (period)
Living Areas	Any time	40 dB(A)
Sleeping Areas	Day (7am – 10pm)	40 dB(A)
	Night (10pm – 7am)	35 dB(A)

Note:

1. The above criteria do not apply to kitchens, bathrooms, laundries, foyers, hallways, balconies or outdoor areas.
2. The above criteria define the minimum acceptable levels. Buildings may be built to a better than average standard by applying more stringent criteria.

Certification from an appropriately qualified acoustic consultant that the building has been designed to meet these criteria shall be submitted to the Certifier prior to issue of the Construction Certificate.

(Reason: Amenity, environmental compliance and health)

43. Internal Noise Levels Commercial

To minimise noise intrusion from any external noise source on the commercial component of the development, the building shall be designed and constructed to comply with the requirements of Australian Standard AS2107-2016 – Acoustics – Recommended design sound levels and reverberation times for building interiors.

Certification from an appropriately qualified acoustic consultant that the building has been designed to meet this criteria shall be submitted to the Certifier prior to issue of the Construction Certificate.

(Reason: Amenity, environmental compliance and health)

44. Building Ventilation

To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided. These shall be designed in accordance with the provisions of:

- (a) The National Construction Code:
 - (i) AS1668.1, AS1668.2 and AS3666.1 as applicable; and/or
 - (ii) Alternative solution using an appropriate assessment method

Details of all mechanical ventilation and exhaust systems, and certification provided by an appropriately qualified person verifying compliance with these requirements, shall be submitted to the Certifier prior to the issue of the Construction Certificate.

(Reason: Health and compliance)

45. Hazardous Building Material Assessment

A hazardous building material assessment shall be undertaken by an appropriate qualified person and is to be submitted to the Certifier for approval prior to the issue of the Construction Certificate. The assessment shall identify any likely hazardous materials within any structure to be demolished and provide procedures on how to handle and dispose of such materials.

(Reason: Environmental protection/public health and safety)

46. Noise Mechanical Services

To minimise the impact of noise onto receivers on surrounding land, all mechanical services shall be designed to comply with the noise emission criteria contained in the EPA's Noise Policy for Industry 2017. Details of the proposed equipment, siting, appropriate noise criteria and any attenuation required shall be prepared by an appropriately qualified acoustic consultant and accompany the application for a Construction Certificate.

(Reason: Amenity, environmental compliance and health)

47. Contamination – Investigation, Remediation and Validation

After demolition of the structures on the site but prior to the lodgement of an application for a Construction Certificate:

- (a) A Stage 2 Detailed Site Investigation (DSI) shall be conducted by a suitably qualified and experienced environmental consultant report and a report provided to Council for approval in writing. The DSI shall include, but not be limited to, the following:
 - Sampling, testing and validation of fill material;
 - Sampling, testing and validation of soil contaminants within the small areas outside the basement footprint;
 - Consideration of whether remediation and the preparation of a Stage 3 Remedial Action Plan (RAP) is required; and

- Variation of the Conceptual Site Model (CSM) if necessary; and
 - A statement on the suitability of the site for the proposed use and any necessary recommendations for further action.
- (b) Any required RAP must be approved in writing by Council prior to the commencement of any remediation work.
- (c) The site must be remediated in accordance with the Council-approved RAP;
- (d) Prior notice of remediation work must be given to Council at least 30 days before the commencement of the work in accordance with Clause 16 of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- (e) If a Stage 4 Validation Report and a clearance certificate issued by an appropriately qualified occupational hygienist is required, these must be submitted to Council for approval in writing. The Validation Report must clearly state that the objectives stated in the approved RAP (if one is required) have been achieved and the land is suitable for the proposed use. In addition, notice of completion of remediation pursuant to clause 18 of SEPP 55 shall be provided.

Notes:

(i) Contaminated land reports submitted to Council must be prepared, or reviewed and approved by, a certified contaminated land consultant certified under the Environment Institute of Australia and New Zealand – Certified Environmental Practitioner (Site Contamination) (CEnvP (SC)) or the Soil Science Australia – Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) schemes.

(ii) Contaminated land reports shall be prepared in accordance with:

- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)
- *Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land* (Department of Urban Affairs and Planning and EPA 1998) (Planning Guidelines) (or updates)
- *Consultants reporting on contaminated land – Contaminated Land Guidelines* (NSW EPA 2020)

(Reason: Protection of environment and public health)

48. Contaminated Land – Remedial Action Plan

Should NEPM Site Contamination Health Investigation Levels (HIL B) limits to be exceeded, prior to commencement of any work, a Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified contaminated land consultant that complies with:

- (i) Environment Protection Authority (EPA) ‘Consultants Reporting on Contaminated Land – Contaminated Land Guidelines’ (2020); and
- (ii) Managing Land Contamination Planning Guidelines SEPP55 - Remediation of Land (1998)

The RAP shall address any findings/recommendations in the Preliminary and Detailed Site Investigations for the site. It shall clearly state proposed clean-up objectives, and demonstrate how the site can be made suitable for the proposed use. The RAP shall be submitted to Council for review and concurrence prior to commencement of any remedial action works.

(Reason: Environmental protection, public health and safety)

49. Contaminated Land – Remediation and Validation

After Council has issued its concurrence in writing that any necessary Remedial Action Plan (RAP) is suitable, the site must be remediated in accordance with the RAP following demolition of the building structures and hardstand surfaces, but prior to construction of the proposed buildings. The following actions shall also be undertaken:

- (a) Any variations to the RAP must be approved in writing by Council prior to the commencement of any work;
- (b) Prior notice of remediation work must be given to Council at least 30 days before the commencement of the work in accordance with Clause 16 of SEPP 55;
- (c) A Stage 4 Site Validation Report (SVR), prepared by a suitably qualified contaminated land consultant, must be submitted to Council for its review and concurrence. The site validation report shall provide a notice of completion of remediation works pursuant to clause 18 of SEPP 55, whether there are any ongoing site management requirements, whether the objectives stated in the approved RAP have been achieved, and a clear statement on the suitability of the continued use of the site;
- (d) Further hydrogeological investigation should be carried out to determine the requirement of a Dewatering Management Plan (DMP) and subsequent dewatering management during construction. AS 2601 – 2001

(Reason: Environmental protection, public health and safety)

50. Provide Acoustic Report

Provide to Council an Acoustic Report, which in addition to confirming that the site is capable of meeting acoustic requirements with respect to both external noise impacts on the site, and noise generation by the site, shall also provide a detailed analysis of both rail noise and vibration impacts, and noise emission limits for future operational noise from the site. It is noted that the above are recommendations from the Acoustic Report provided to Council for the initial Development Application (Renzo Tonin & Associates, Document TM802-01F03 Acoustic Assessment (r0), 8 November 2022) and which was produced during Covid restrictions.

(Reason: Amenity)

51. Construction Traffic Management Plan

Prior to issue of the Construction Certificate, a detailed Construction Traffic Management Plan shall be prepared for pedestrian and traffic management and be submitted to the relevant road authority for approval. The plan shall: -

- (a) Be prepared by a TfNSW accredited consultant.

- (b) Be in accordance with the current version of AS1742.3 and its associated handbook; and the TfNSW's Traffic Control at work site manual.
- (c) Implement a public information campaign to inform any road changes well in advance of each change. The campaign shall be approved by the Traffic Committee.
- (d) Nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- (e) Confine temporary road closures to weekends and off-peak hour times and shall be the subject of approval from Council. Prior to implementation of any road closure during construction, Council shall be advised of these changes and a Traffic Guidance Scheme shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

(Reason: Public safety and amenity)

52. Traffic Work

Prior to issue of the Construction Certificate, any proposals for changes to the carriageway of a public road including shared paths, involving traffic arrangements shall be referred to the Local Traffic Committee for approval. All work shall be designed in accordance with RMS Technical Directives and Guidelines.

(Reason: Public safety and amenity)

53. Disabled parking spaces

Prior to the issue of the Construction Certificate, Disabled parking spaces compliant with Australian Standards should be provided within the car park.

The design of the disabled parking spaces must be to the satisfaction of Council and meet Australian Standards, Austroads guidelines and TfNSW technical directions and guidelines.

(Reason: Access for mobility impaired users)

54. Electric Vehicle Charging Bays

Prior to the issue of the Construction Certificate, all parking bays for motor vehicles and bicycles should be able to have an electric vehicle charger provided as part of the bay. A charger shall be provided for at least 50% motor vehicles and bicycles parking bays at the commissioning of the building.

The design and provision of electric vehicle charging infrastructure must satisfy the relevant NCC requirements.

(Reason: Support sustainable transport)

55. Bicycle facilities

Bicycle wayfinding, storage and end of trip facilities must be provided on-site to the satisfaction of Council's *DCP*. The storage and end of trip facilities must be located in a convenient and secure location in as close proximity to the retail areas as possible. Separate facilities must be provided for use by employees and visitors to the development. All spaces must be clearly and visibly marked on site for their intended use.

The design of the bicycle wayfinding (such as signposting), storage (including bicycle racks, bicycle rails and lockers) and end of trip facilities must be to the satisfaction of

Council and meet Australian Standards, Austroads guidelines and TfNSW technical directions and guidelines.
(Reason: Support active transport use)

PRIOR TO COMMENCEMENT

The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site.

56. Dilapidation Report of Council's Property

Submit a dilapidation report including photographic record of Council's property extending to a distance of 50m from the development, detailing the physical condition of items such as, but not exclusively to, the footpath, roadway, nature strip, and any retaining walls.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this regard, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

This dilapidation report shall be submitted to Council and the Certifier advised of the submission prior to commencement of work.
(Reason: Protection of Council's infrastructure)

57. Geotechnical Report

The site and adjoining sites (including the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report shall be submitted to the registered certifier prior to commencement of work. The report should indicate how the work is to be undertaken safely and with maximum protection for neighbouring amenity, with particular regard to acoustic and vibration impacts. The report should identify the stages at which the engineers' personal supervision is to occur during the works. The report should recommend when and where further study and investigation are to take place during construction.

All construction plans are to be referenced at the conclusions and recommendations of the report, including for further investigation, are to be followed during the works. The report shall be submitted to Council for record purposes.

In the event of the geotechnical conditions of the site results in instability during the excavation phase and more area than approved being excavated, all excavation work is to cease and Council to be contacted to allow the matter to be reviewed.
(Reason: Protection of adjoining properties and ensure compliance)

58. Dilapidation Report of Adjoining Properties

Prior to commencement of work, submit a photographic survey and report of the adjoining properties 84-86 Albert Avenue, 88 Albert Avenue, and 96-100 Albert Avenue and 7-13 Ellis Street to the Certifier and all owners of these adjoining properties. Such photographic survey and report shall be prepared by a suitably

qualified person, detailing the physical condition of these properties, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary.

In the event of a property owner refusing to allow access to carry out the photographic survey, the proponent must demonstrate in writing to the Certifier, and provide a copy to Council, that the purpose of the survey was made clear to the property owner and that reasonable attempts to obtain access were made.

(Reason: Protection of adjoining owners)

59. Asbestos Sign to be Erected

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site. The sign is to be erected prior to the commencement of works and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

60. Neighbour Notification of Asbestos Removal

The applicant/builder is to notify anyone occupying premises in the immediate vicinity of the site, five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence.

As a minimum, this notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.

(Reason: Public health)

61. Waste Storage Room Construction

A design certificate and detailed plans are to accompany any Construction Certificate application which demonstrates that the waste storage has been designed to be constructed in accordance with the Waste Management Guide and including the following requirements:

- (a) The floor is to be constructed of concrete at least 75mm thick and adequately graded to drain to a Sydney Water approved drainage fitting;
- (b) The floor must be finished so that it is non-slip and has a smooth and even surface covered at all intersections;
- (c) The ceilings and walls must be finished with smooth faced non-absorbent material capable of being cleaned;
- (d) The room is to be provided with artificial light controllable within the room and adequate ventilation;

The room is to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock.

(Reason: Environmental protection/waste reduction/public health and safety)

62. Waste Chute Design

Where the development incorporates a Waste Chute as part of the waste management system, a design certificate and detailed plans are to accompany any Construction Certificate application which confirms that the waste chute can be

constructed to satisfy the Waste Management Guide and specifically the following requirements:

- (a) Chutes, service openings and charging devices are constructed of metal or a smooth faced surface which is fire resistant and of impervious material
 - (b) Chute is cylindrical in section, vertical and without bends as it passes through the floors
 - (c) Chutes must terminate in the waste storage room and discharge into a waste bin
 - (d) manufactures technical specifications and operational limitations.
- (Reason: Environmental protection/waste reduction/public health and safety)

63. Permits and Approvals Required

Application is to be made to Council's Infrastructure Services Division for the following approvals and permits as appropriate:

- (a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- (b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and TfNSW. A separate written application to work outside normal hours must be submitted for approval.
It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.
- (c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees. (Minimum one (1) weeks' notice required.)
- (d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- (e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- (f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- (g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.
- (h) Permit to install ground anchors beneath the road reserve.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

64. Application for Vehicle Crossing

Submit an application with fees to Council for the construction of a plain concrete vehicular crossing.

(Reason: Protection of public asset)

65. Adjustment to Street Lighting

Prior to commencement of work, consult with utility authorities to determine the requirements of relocation/adjustment of electricity supply and street lighting services fronting the property at Ellis Street, as required to suit the new development. Such street lighting shall also conform to Council's standard specifications.

(Reason: Public amenity)

66. Underground Utility Services

Where excavation is proposed, locate and establish the size and levels of all utility services in the footpath and road reserve. Contact "Dial Before You Dig" Service" prior to commencement of any works.

All adjustments to public utilities' mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

67. Spoil Route Plan

Submit a "to and from" spoil removal route plan to Council prior to the commencement of excavation on the site. Such a route plan should show entry and exit locations of all truck movements.

(Reason: Public amenity)

68. Site Management

A site Management Plan shall be submitted to and approved by the Certifier prior to commencement of work. The site management plan shall include the following measures as applicable.

- (a) Details and contact telephone numbers of the owner, builder and developer;
- (b) Location and construction details of protective fencing to the perimeter of the site;
- (c) Location of site storage areas, sheds and equipment;
- (d) Location of stored building materials for construction;
- (e) Provisions for public safety;
- (f) Dust control measures;
- (g) Site access location and construction;
- (h) Details of methods of disposal of demolition materials;
- (i) Protective measures for tree preservation;
- (j) Provisions for temporary sanitary facilities;
- (k) Location and size of waste containers and bulk bins;
- (l) Soil and Water Management Plans (SWMP); comprising a site plan indicating the slope of land, access controls, location and type of sediment controls and storage/control methods for material stockpiles;
- (m) Construction noise and vibration management.

The site management measures shall be implemented prior to the commencement of any site works and maintained during the construction period. A copy of the

approved Site Management Plan shall be conspicuously displayed, maintained on site and be made available to the Certifier/Council officers upon request.
(Reason: Environment protection, public health and safety)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

The following conditions are to be complied with throughout the course of site works including demolition, excavation and construction.

69. Hours of Work

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, must be carried out only between the hours of 7 am to 5 pm Mondays to Fridays and 7 am to 12 noon on Saturdays. No work is permitted on Sundays or Public Holidays.

An application for an Out of Hours Work Permit to allow variation to these approved hours must be lodged with Council at least 48 hours prior to the proposed commencement of the work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and must be accompanied by the required fee. One (1) permit is required for each variation to the approved working hours within any 24 hour period.

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 4.55 of the *Environmental Planning and Assessment Act 1979* must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This Section 4.55 application may require re-notification in some circumstances.
(Reason: Ensure compliance and amenity)

70. Provide Erosion and Sediment Control

Where work involves excavation or stockpiling of raw or loose materials, erosion and sediment control devices shall be provided wholly within the site whilst work is being carried out in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the *Protection of Environment Operations Act 1997* and the Department of Environment, Climate Change and Water guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.
(Reason: Environmental protection)

71. Demolition Work AS 2601-2001

Any demolition must be carried out in accordance with AS 2601 – 2001, *The demolition of structures*.
(Reason: Safety)

72. Temporary Toilet Facilities

Temporary toilet facilities shall be provided to the satisfaction of the Certifier. The provision of toilet facilities must be completed before any other work is commenced on site. NOTE: Portable toilet facilities are not permitted to be placed on public areas without prior approval having been obtained from Council.
(Reason: Health and amenity)

73. Silencing Devices

Sound attenuating devices shall be provided and maintained in respect of all power-operated plant used during demolition, excavation, earth works and the erection of the structure.
(Reason: Maintain amenity to adjoining properties)

74. Asbestos Removal and Disposal

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice for "How to Safely Remove Asbestos" approved under section 274 of the NSW Work Health and Safety Act 2011.

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Certifier with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.
(Reason: Environmental protection/Public health and safety)

75. Temporary Ground Anchors – Supervision

A professional Geotechnical Engineer shall be on site to supervise the piling, excavation and finally the installation and stressing of any ground anchors. On completion of these works, a report from the Geotechnical Engineer shall be submitted to Council for record purposes.

A Chartered Professional Engineer shall monitor adjoining public infrastructures to detect any ground heaving or settlement during and after the installation of the piling and ground anchors. A rectification report shall be submitted to Council should unacceptable displacements occur within the zone of influence.
(Reason: Protection of public assets)

76. Sweep & Clean Pavement

Sweep and clean pavement surface adjacent to the ingress and egress points of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council.
(Reason: Legal requirement)

77. Street Signs

The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant.

(Reason: Protection of public assets)

78. Maintenance of Nature Strip

Where a nature strip and/or footpath is located directly adjacent to the property, the nature strip must be maintained during the construction period to ensure the turf/vegetation is no higher than 75mm in height and the public footpath is kept free of all rubbish, weeds and debris to ensure safe public access.

(Reason: Public amenity and safety)

79. Tree Protection

- (a) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on the approved plans unless exempt under relevant planning instruments or legislation.
- (b) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- (c) Tree roots greater than 25mm diameter are not to be removed unless approved by a qualified Arborist on site.
- (d) All structures are to bridge roots unless directed by a qualified Arborist on site.
- (e) Tree protection measures must comply with the AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures

(Reason: Tree management)

80. Public Tree Protection

- (a) Unless identified by the development consent, no tree roots over 25mm diameter are to be damaged or cut and all structures are to be bridged over such roots.
- (b) Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the applicant is to immediately Contact Council's Public Trees section and resolve the matter to Council's satisfaction.

(Reason: Tree management)

81. Excavation Within Tree Protection Zones

Excavation within the Tree Protection Zones (TPZ) of the following trees shall not commence until the trees have been removed:

Trees 1 & 2, located on the neighbouring property, as identified in the Arboricultural Impact Appraisal and Method Statement dated 04/8/2022 prepared by Ezigrow Arboricultural Consulting.

This condition does not give approval for removal of the trees.
(Reason: Safety, tree protection, tree management)

82. Storage of Materials on Council Land Prohibited

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

83. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.

(Reason: Environment & Health Protection)

84. Testing to Verify Water Quality Prior to Pump-out

(a) On the occasion that any rainfall or other event necessitates dewatering or pumping-out of accumulated water on the site, ongoing water quality sampling, analysis and collation of results shall be conducted prior to each discharge to Council's stormwater system (or other receiving watercourse). Should test results exceed the water quality criteria, dewatering is not permitted and adjustments to the pollution control methodology will need to be made by the suitably qualified environmental consultant. Any changes to the methodology require the written notification of Council.

(b) A copy of the up-to-date Council-approved Construction Site Dewatering Plan (or other document detailing the water pollution control method), the written approval from Council for the method, and the ongoing water quality test results shall be kept on the site at all times, for the duration of the site works that will require dewatering activity, and produced to an authorised officer of the Council when requested.

(Reason: Environmental protection, compliance)

85. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified as complying with a Resource Recovery Order and associated exemptions made under the Protection of the Environment Waste Regulation 2014, or as waste classified in accordance with the Environment Protection Authority (EPA) Waste

Classification Guidelines prior to being removed to a recipient site or to a suitable EPA approved waste disposal facility.

(Reason: Environment and health protection)

86. Importation of Fill

Any fill material to be imported onto the site for levelling, construction or engineering purposes must be certified by a suitably qualified consultant as virgin excavated natural material (VENM) or excavated natural material (ENM), or compliant with a Resource Recovery Order and associated exemptions made under the Protection of the Environment Waste Regulation 2014. Other materials used for the construction of greens, tees and bunkers etc. should not contain contaminated material that could be a risk to human health or the environment.

(Reason: Environment & Health Protection)

87. Dust Control

The following measures must be taken to control the emission of dust:

- (a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- (b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- (c) All dusty surfaces and activities must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system. Activities could include, but are not limited to, rock-breaking, excavation, earth moving, drilling, and angle grinding, cutting, jack hammering and chiselling of concrete or masonry.
- (d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity and environmental protection)

88. Minimising Construction Noise

Construction noise shall be controlled to comply with the requirements as set out in the EPA interim Construction Noise Guideline (CNG).

A noise and/or vibration monitoring plan shall be implemented during construction in the event of a complaint being received by Council or the construction contractor. A report of the findings and action taken to mitigate any exceedances shall be submitted to Council within seven (7) days of its completion. Where noise criteria are exceeded, appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity and environmental compliance)

89. Pumping of Accumulated Stormwater on Construction Site

Appropriate pollution control methods shall be adopted to ensure any water discharged into Council's stormwater system from pumping out stormwater that has accumulated on the development site complies with relevant environmental criteria.

The following details shall be submitted to Council for approval prior to the commencement of any work:

- (a) Details of proposed pollution control methods
- (b) Certification from an appropriately qualified environmental consultant verifying the adequacy of the proposed pollution control methods to ensure discharged water complies with the following water quality criteria:

Analyte	Unit	Measurement	Criteria
Total nitrogen	µg/L	< than	900
Total phosphorous	µg/L	< than	63.5
Dissolved oxygen	%sat	Btn 80 - 120%	
pH	pH units	Btn 6.5 - 8.5	
Conductivity	µS/cm	< than	778
Suspended solids	Mg/L	< than	50
Turbidity	NTU	< than	50
Zinc	µg/L	< than	43
Lead	µg/L	< than	0.6
Copper (& other heavy metals)	µg/L	< than	6.5

(Reason: Environmental protection, compliance)

90. Loading and Unloading During Construction

The following requirements apply:

- (a) All loading and unloading associated with construction must be accommodated on site.
- (b) The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- (c) If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (d) In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level.
- (e) If a Works Zone is warranted an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (f) Application for a Works Zone must be submitted to Council a minimum 8

weeks prior to being required. Works application form is available on the City's Website.

(Reason: Public safety and amenity)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

91. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of a Final Occupation Certificate. An application must be made either directly to Sydney Water or through a Sydney Water accredited Water Service Coordinator. For details go to www.sydneywater.com.au/section73 or call 1300 082 746.

The Section 73 Certificate must be submitted to the Certifier.
(Reason: Ensure statutory compliance)

92. Street Numbering

Prior to the issue of any Occupation Certificate, written application shall be made to the Geospatial Services Section of Council for the allocation of street numbering for each of the newly created strata lots and/or allotments. Documentary evidence of the allocated numbering issued by Council is to be lodged with the Subdivision Certificate Application and Linen Plans.

(Reason: Ensure compliance with Council's House-Property Numbering Policy)

93. Planning Agreement

Prior to the issue of first Occupation Certificate, the obligations under the Planning Agreement executed on 11 May 2022 relating to this development are to be satisfied at the timing and contribution amount required under Schedule 2 of the Planning Agreement. Contact Council for an indexation (CPI) adjustment at the time of payment.

(Reason: Ensure compliance)

94. Right of Way Registration

Prior to the issue of any Occupation Certificate, right-of-way(s) must be registered with Land Registry Services over all that part of the land located within 3 metres of the western boundary of the site (which is a public through-site link), for the entire length of this western boundary, and 2 metres of the boundary fronting the Ellis Street, for the entire frontage. These rights-of-way are to allow public use of this portion of the land.

(Reason: Compliance, urban design)

95. BASIX Certificate

Prior to the issue of the relevant Occupation Certificate, a completion certificate is to be submitted to the Certifier demonstrating the manner in which the measures committed to in the latest BASIX Certificate have been satisfied.

(Reason: Environmental sustainability)

96. Confined Space Sign

Prior to the issue of any Occupation Certificate, securely install standard confined space danger signs in a prominent location within the immediate vicinity of access points to on site stormwater detention systems, rainwater tanks and confined spaces in accordance with the requirements of NSW Work Health and Safety Regulation 2017.

(Reason: Safe access to tank)

97. Sustainable Development - Multi-unit Dwellings

Prior to the issue of the Whole Occupation Certificate for the multi occupancy, a Sustainability manual is to be prepared which details all the environmental incentives outlined in the scorecard and ongoing provision and maintenance of these measures. The manual shall be provided to each unit in the development.

(Reason: Environmental sustainability)

98. Access for the Disabled - Disability Discrimination Act

The building/development must comply with the requirements of the Disability Discrimination Act.

It should be noted that this approval does not guarantee compliance with this Act and the applicant/owner should investigate their liability under this Act.

(Reason: Access and egress)

99. Fire Safety Certificate Forwarded to NSW Fire and Rescue

Prior to the issue of any Occupation Certificate and upon completion of the building work, a Fire Safety Certificate shall be furnished by the owner to Council, and the owner must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be forwarded to the Commissioner of New South Wales Fire and Rescue, and must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building in accordance with Clause 172 of the *Environmental Planning and Assessment Regulation 2000* in respect to each essential fire safety measure included in the Schedule attached to the Construction Certificate.

(Reason: Safety)

100. Marked Parking Bays

Prior to the issue of any relevant Occupation Certificate, all parking bays and/or truck docks and the direction of traffic movement shall be permanently marked on the pavement surface in accordance with the approved parking and driveway layout to the satisfaction of the Certifier. Where it is proposed that a building or site be used for multiple occupations, all parking bays shall be identified by corresponding consecutive numbers.

(Reason: Ensure compliance)

101. Services - Electricity Supply and Telecommunication Mains

Prior to the issue of a Whole Occupation Certificate, all existing and proposed electricity supplies and telecommunication mains and services around the perimeter of the site shall be relocated underground to the satisfaction of the relevant utility provider and Willoughby City Council at the full cost of the applicant.

(Reason: Compliance)

102. Safer by Design

Prior to the issue of any relevant Occupation Certificate and to minimise the opportunity for crime and in accordance with CPTED principles, the development shall incorporate the following:

- (a) In order to maintain a safe level of visibility for pedestrians within the development, adequate lighting to AS1158 is to be provided to all common areas including the basement car park, common open space and any common stair access to these areas and pedestrian routes, particularly including the waste storage areas.

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.

- (b) The ceiling and vertical structures of the basement parking area shall be painted white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- (c) The design, installation and maintenance of landscaping (and associated works) within pedestrian routes around the site (and adjacent to mailboxes) shall not impede visibility and clear sight lines along the pedestrian footway from one end to the other.
- (d) The means to isolate the residential and commercial components of the building shall be incorporated into the development, including the security keying of lifts and doors and other measures for access control.
- (e) Walls/screens between balconies shall be designed to avoid foot holes or natural ladders so as to prevent access between balconies/terraces within the development.
- (f) Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- (g) A small portion of each storage area shall be of solid construction (i.e. Cupboard).

(Reason: Safety and surveillance, energy efficiency, amenity)

103. Visitor Parking Spaces

Prior to the issue of a Whole Occupation Certificate, the 5 visitor car parking spaces shall be physically identified on site, and maintained free of obstruction for the exclusive use of visitors to the premises at all times.

(Reason: Amenity)

104. Services - Mailboxes

Prior to the issue of any Occupation Certificate, all mail boxes provided on site shall comply with the requirements of 'Australia Post' in terms of size, location, numbering and clearing. Details of the requirements can be obtained from Australia Post or from their web site. Letter boxes for adaptable dwellings shall comply with AS 4299 Cl 3.8.

(Reason: Legal)

105. Affordable Housing – Fittings and Finishes

Prior to the issue of any Occupation Certificate, the Certifier must be satisfied that the affordable housing dwellings have the internal fittings and finishes at the same standard as the other dwellings within the development and in accordance with the schedule endorsed by Council.

Any costs associated with bringing the affordable housing dwellings to the standards required are to be borne by the applicant.

(Reason: Amenity)

106. Affordable Housing Dwellings

The affordable housing unit, 4BED 02-A01, shown on Level 02 GA Drawing 1977-MAK-DA2012, Rev 02, dated 08/04/2023 prepared by MAKE Architects, and providing a total gross floor area of a minimum of 121m², are to be dedicated to Willoughby City Council within two months of the registration of any subdivision of the development creating the areas to be dedicated and within 6 months of the issue of an Occupation Certificate for the purpose of affordable housing in accordance with Clause 6.8 of *Willoughby Local Environmental Plan 2012*. The affordable dwelling/unit must have an appurtenant car space.

(Reason: Ensure compliance)

107. State Survey Marks

Prior to the issue of a Whole Occupation Certificate, the Applicant shall reinstate any existing State/Permanent Survey Marks damaged by the works to the specification of the Land and Property Management Authority. A copy of the Location Sketch Plan of PM/SSM including reduced level (AHD) shall be submitted by a registered Surveyor. The degree of horizontal and vertical accuracy shall be acceptable to the NSW Land Registry Services.

(Reason: Public amenity)

108. Temporary Ground Anchors – Destressing

Prior to the issue of any Occupation Certificate, all damages to Council's infrastructures due to the works associated with the piling and installation of any ground anchors shall be restored to the requirements of Willoughby City Council at no cost to Council. All ground anchors shall be de-stressed by the removal of the anchor heads and protruding tendons on completion of the works. A certificate issued by a professional Geotechnical Engineer verifying that all ground anchors have been decommissioned shall be submitted to Council.

(Reason: Destressing of ground anchors)

109. CCTV Report of Council Pipe System After Work

Prior to the issue of any Occupation Certificate, a qualified practitioner, with qualifications/training in accordance with Water Services Association of Australia WSA05-2013 Conduit Inspection Reporting Code of Australia Version 3.1, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the Council drainage pipeline constructed in Ellis Street as part of the works after the completion of all works. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

- (a) The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
- (b) The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
- (c) Distance from the manholes shall be accurately measured and displayed on the video.
- (d) All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
- (e) The inspection survey shall be conducted from manhole to manhole.
- (f) Recorded CCTV footage & reports are to use Council asset pit numbers to identify the start and finish location of the CCTV. A plan can be obtained from Council with these asset numbers at request.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council. Any damage that has occurred to the section of the pipeline since the commencement of any works on the site shall be repaired in full to the satisfaction of Council at no cost to Council, which may include full reconstruction. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier.

(Reason: Ensure compliance and protection of public asset)

110. Inspection of Drainage Connection to Council's Drainage Line

Prior to the issue of any Occupation Certificate, inspection of drainage connection works to the existing Council's pipeline/pit shall be carried out by Council's Engineer. Written confirmation shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier. For the purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.

(Reason: Ensure compliance)

111. On-site Water Management System

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed of to the street drainage system in Ellis Street via an approved OSD system with a minimum volume of 27m³ and a water quality improvement system in accordance with Sydney Water's requirements AS/NZS3500.3, Part I of *Council's DCP* and Technical Standard 1. The construction of the stormwater drainage system of the proposed development shall be in accordance with the approved detailed stormwater drawings required under this development consent and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

112. Sign for On-site Stormwater Detention System

Prior to the issue of any Occupation Certificate pertaining to any works requiring an On-Site Detention System (OSD), an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD tank or basin.

The wording for the plaque shall state *"This is the on-site stormwater detention system required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.
(Reason: Prevent unlawful alteration)

113. Confined Space Sign

Prior to the issue of any Occupation Certificate, securely install standard confined space danger signs in a prominent location within the immediate vicinity of access points to on site stormwater detention systems, rainwater tanks and confined spaces in accordance with the requirements of NSW Work Health and Safety Regulation 2017.
(Reason: Safe access to tank)

114. Certification of OSD

Prior to the issue of any Occupation Certificate, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with *Council's DCP* and Technical Standards. Council's standard certification form is available in Appendix 2 of Council's Technical Standard No. 1.
(Reason: Legal requirement)

115. Certification of the Basement Pumpout Drainage System

Prior to the issue of any Occupation Certificate and upon completion of the pump-out system, the following shall be submitted to the Certifier.

- (a) A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as-built pumpout system complies with Part I of *Council's DCP* Technical Standard 1, all relevant codes and standards and the approved stormwater management plans.
- (b) Work-as-executed plans based on the approved pump-out system plans from a registered surveyor to verify that the volume of storage and pump capacity are in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved pump-out system plans.
- (c) Certification from a licensed plumber to ensure that the constructed pump-out system complies with the current plumbing requirements of Sydney Water and AS/NZS3500.3.

(Reason: Ensure compliance)

116. Works-As-Executed Plans - OSD

Prior to the issue of any Occupation Certificate and upon completion of the OSD System, the following shall be submitted to the Certifier:

- (a) Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the volume of storage, PSD, water and floor levels are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.

- (b) Engineer's certification of the OSD system together with the completed Council's standard form for On-Site Detention Record of Installation.

(Reason: Record of works)

117. S88B/S88E(3) Instrument

Create Positive Covenant and Restriction on the Use of Land on the Title in favour of Council as the benefiting authority for the as-built on-site stormwater detention (OSD) system and stormwater treatment system. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council's Technical Standards.

The above instruments shall be created under Section 88B of the *Conveyancing Act 1919* for newly created lots. For an existing lot, the instruments can be created under Section 88E(3) of the *Conveyancing Act 1919* using Form 13PC and 13RPA respectively. The size and relative location of the OSD system and stormwater treatment system, in relation to the building footprint and property boundary, must be shown on the final plan of subdivision/strata plan or must be shown on the scale sketch, attached as an annexure to the request 13PC and 13RPA forms. The S88B instrument or 13PC/13RPA forms shall be lodged with Council's Standard S88B/S88E Lodgement Form with all supporting documentations listed in the Form. Council's Standard Form is available from Council upon requested. Council's costs, including legal fees associated with reviewing, approving and executing the Positive Covenant and Restriction of Use together with associated PEXA fees must be paid by the Applicant. The Applicant is responsible for any stamp duty payable in respect of the dealing.

Documentary evidence of registration of these instruments with the NSW Land Registry Services shall be submitted to the Certifier and Council prior to issue of any Occupation Certificate.

(Reason: Maintenance requirement)

118. Documentary Evidence of Positive Covenant, Engineers Certificate

Prior to the issue of any Occupation Certificate, the following documentary evidence of the completed drainage works shall be submitted to Certifier and Council: -

- (a) Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- (b) Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system.
- (c) Work-as-Executed plans highlighting in red any variations based on the approved stormwater management plans from a registered surveyor for the as-built OSD system.

(Reason: Public record)

119. Construction of Kerb & Gutter

Prior to the issue of any Occupation Certificate, construct a new kerb and gutter together with any necessary associated pavement restoration in accordance with Council's specification for the full frontage of the development site in Ellis Street.

(Reason: Public amenity)

120. Reconstruct Pavement

Prior to the issue of any Occupation Certificate, 4.5m wide section of the road pavement including any necessary associated works adjoining to the full frontage of the development site shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 6×10^4 ESA.

(Reason: Ensure compliance)

121. Concrete Footpath

Prior to the issue of any Occupation Certificate, construct a 1.5m wide footpath for the full frontage of the development site in Ellis Street.

All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

122. Construct stormwater pipe

Prior to the issue of any Occupation Certificate, construct a new stormwater drainage system in Ellis Street, to allow the site drainage system to connect to the existing Council stormwater drainage system. As a minimum, the works are to consist of:

- A new kerb inlet pit in Ellis Street with a 1.8m lintel, near the western boundary of the site.
- A new 375mm dia Class 4 RCP stormwater pipe to connect the new kerb inlet pit to the existing Council pipe.
- Removal of the existing Council pit at the position of the new vehicle crossing
- If required, construction of a new pit at the junction between the existing Council system and the new stormwater system.

All works are to be in accordance with Council's specifications.

(Reason: Stormwater management)

123. Street Lighting

Prior to the issue of any Occupation Certificate, provide modifications to street lighting required to suit the development in accordance with Australian Standard AS/NZ 1158.(2005).

Reason: Public amenity)

124. Vehicular Crossing

Construct a new vehicular crossing including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The crossing is to be 6.2 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The eastern edge of the crossing is to be located 1.2m off the eastern boundary of the site.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with unless written approval is gained from Council for alternate levels:

- (a) At back of layback – 100 mm above and parallel to the gutter invert.
- (b) At property boundary – 160 mm above and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5% towards the kerb. The nature strip and footpath is to be adjusted for a minimum distance of 2.0 metres on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.
(Reason: Public amenity)

125. Removal of Redundant Crossings

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to issue of any Occupation Certificate.
(Reason: Public amenity)

126. Inspection of Civil Works on Road Reserves

All required road pavement, footpath, kerb and gutter, drainage works and/or any necessary associated works on the road reserve shall be completed in accordance with the Council approved drawings, conditions and specification (AUS-SPEC).

Pursuant to Section 138 of the *Roads Act 1993*, all works carried out on the road reserve shall be inspected and approved by Council's Engineer. Upon completion, Work-as-Executed drawings prepared by a registered surveyor shall be submitted to Council for record purposes. The Work-as-Executed drawings shall be based on the Council approved drawings with all changes marked in red. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifier prior to the issue of any Occupation Certificate.
(Reason: Ensure compliance)

127. Performance Bond

Prior to the issue of any Occupation Certificate, the Applicant shall lodge with the Council a performance bond of \$40,000 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the *Roads Act 1993*. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.

(Reason: Ensure compliance and specification)

128. Turfing of Nature Strip

Prior to the issue of a Whole Occupation Certificate and in the event of damages to the grass verge during works, trim the strip of land between the property boundary and the road, spread topsoil on top of the trimmed surface and lay approved turfing on the prepared surfaces. The turf shall be protected from vehicular traffic and kept watered until established.

(Reason: Public amenity)

129. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction and development works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

130. Vehicle Access and Manoeuvring – Construction & Certification

Prior to the issue of any Occupation Certificate, the Applicant shall submit, for approval by the Principal Certifier, certification from a suitably qualified and experienced Traffic Engineer relating to the construction of vehicular access and manoeuvring for the development. This certification must be based on a site inspection of the constructed vehicle access, manoeuvring and vehicle accommodation areas, with dimensions and measurements as necessary, and must make specific reference to the following:

- (a) That the as-constructed carpark complies with the approved Construction Certificate plans.
- (b) That finished driveway gradients and transitions comply with AS/NZS 2890.1 and AS 2890.2 and will not result in scraping to the underside of cars.
- (c) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement. All driveway grades shall comply AS/NZS 2890.1 and AS 2890.2.
- (d) Aisle widths throughout basements comply with AS/NZS 2890.1.
- (e) That the constructed vehicular path and parking arrangements comply in full with AS/NZS 2890.1, AS 2890.2 and AS 2890.6 in terms of minimum dimensions provided and grades on parking spaces.

- (f) That headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS/NZS 2890.1 and Section 2.7 of AS 2890.6.
- (g) That headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities for compliance with Section 2.7 of AS 2890.6.
- (h) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site (minimum SRV) has been provided for the loading area and the path from the frontage road to the loading area.
- (i) That accessible parking spaces, including spaces provided for adaptable units, provide the required shared zones and bollard in compliance with AS 2890.6.
- (j) Simultaneous manoeuvring of B99 and B85 vehicles including the clearance lines for each vehicle, in accordance with AS2890.1, is provided between the frontage road and the junction with the aisle to the loading bay..
- (k) That manoeuvring of the largest vehicle using the site (minimum SRV) is provided between the frontage road and the loading bay, including clearance in accordance with AS 2890.2.
- (l) That a traffic management system and waiting / passing spaces are provided for all locations where a B99 and a B85 vehicle are not able to pass on all circulation aisles.

(Reason: Ensure compliance)

131. Stormwater Maintenance Plan

Prior to the issue of an Occupation Certificate, submit to the certifying authority approval a Maintenance Plan for the stormwater management system. The plan is to be in accordance with recommendations of "Guidelines for the Maintenance of Stormwater Treatment Measures" published by Stormwater NSW or other relevant guidelines or publications.

(Reason: Ensure operation of system complies)

132. Certification of Water Quality Improvement System

Prior to the issue of an Occupation Certificate, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as built water quality improvement system is in accordance with the approved plans and complies with the requirements of Technical Standard 1.

(Reason: Legal requirement)

133. Vehicle Management System

Prior to the issue of any Occupation Certificate, a vehicle management system shall be installed and commissioned, to manage potential conflict between vehicles at all locations on circulation aisles where vehicles are not able to pass. The system shall include:

- A signal system for the ramp down from ground floor, set to green for incoming vehicles as the default.
- A signal system for access to and from the loading dock. The system is to include a means to change the signals to red for the exit ramp from the basement parking and for incoming vehicles. The system can be manual / push button operation or automatic sensor operation.

- Signal systems as required at all internal ramps between parking levels, where visibility is not available to see oncoming vehicles from the waiting / passing locations.

(Reason: Manage vehicle conflicts)

134. Vehicle Management Plan

Prior to the issue of any Occupation Certificate, the applicant shall submit to the Certifying Authority a Vehicle Management Plan for the development. The plan is to include:

- Details of the vehicle management systems provided for the site to prevent vehicle conflicts
- The maximum vehicle size able to access the site and the areas that it can access. As a minimum, a SRV is to be able to access the loading bay and a B99 vehicle able to access the basement parking areas.
- Details of how deliveries will be managed, such that they occur using the maximum vehicle size able to access the site

(Reason: Vehicle management)

135. Public Tree Maintenance

Prior to the issue of any relevant Occupation Certificate, the applicant's arborist or landscape designer is to certify that:

- (a) All trees on public land have been adequately maintained, that there has been no net deterioration in health and condition, and that any remedial work complies with AS 4970-2009 "Protection of trees on development sites" and AS 4373 - 2007 "Pruning of Amenity Trees".
- (b) All new and replacement public trees are of the required species, container size, planting locations, planting standards, and have been grown and supplied from a recognised nursery complying with AS 2303:2018 Tree stock for landscape use.

(Reason: Tree management, public asset management)

136. Completion of Landscape Works

Prior to the issue of a Whole Occupation Certificate, any approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards, and certified in writing by a qualified horticulturalist, landscape architect or landscape designer.

(Reason: Landscape amenity)

137. Final Public Art Report

Prior to the issue of a Whole Occupation Certificate, the written consent of Council's Planning and Infrastructure Director must be obtained that confirms the public art has been delivered in accordance with the Public Art Plan.

The Final Public Art Report should provide information about the artworks and artist, the fabrication and installation of the work, the documentation and engineers' drawings, the maintenance requirements, any additional relevant information regarding ownership, and copyright of the work.

(Reason: Ensure compliance with Council's Public Art Policy)

138. Public Tree Planting

Prior to the issue of a Whole Occupation Certificate, plant the following trees on Council land forward of the property:

1 x *Lagerstroemia indica x fauriei* 'Tuscarora'

The trees shall:

- (a) Have a minimum container size of 100 litres and grown with AS 2303:2018 Tree stock for landscape use.
- (b) Be planted in accordance with WCC Vegetation Management Guidelines.
- (c) Be planted at least 2m from driveways, and generally in alignment with other street trees.

(Reason: Landscape amenity, tree canopy recruitment)

139. Tree Planting

Prior to the issue of a Whole Occupation Certificate, trees are to be planted in accordance with the following table:

No. Required	Species	Location	Min Pot Size
All trees	As indicated on Landscape Plans Dwg No. LA-00 - LA-06 Issue C dated 26/4/2023 prepared by Studio IZ	As indicated on the Landscape Plan	As indicated on the Landscape Plan
2 trees	Australian native species capable of a mature height at least 10m.	In the deep soil zone in the NW corner of the property	100L
1 Tree	Australian native species capable of a mature height at least 10m.	In the deep soil zone within the front setback.	100L

(Reason: Landscape amenity)

140. Services - Electricity Supply and Telecommunication Mains

Prior to the issue of a Whole Occupation Certificate, all existing and proposed electricity supplies and telecommunication mains and services around the perimeter of the site shall be relocated underground to the satisfaction of the relevant utility provider and Willoughby City Council at the full cost of the applicant.

(Reason: Compliance)

141. General Easement/ROW Provision and Certification

The creation of drainage easements, service easements and/or rights-of carriageway shall be carried out as required. A registered surveyor is to certify prior to the release of the subdivision certificate that all interallotment drainage lines, services or driveways are fully contained within the proposed allotment and/or that future provisions of such are fully covered by the proposed burdens. Alternatively if the surveyor is of the opinion that no easements and/or rights-of-carriageway are required then certification to this effect from the surveyor is to be submitted.

(Reason: Ensure compliance)

142. Section 88B Instrument

A Section 88B Instrument is to be submitted with the Linen Plan for subdivision in respect to any proposed easements, rights-of-way and positive covenants. The instrument shall include the Positive Covenant and Restriction of Use of Land required for the OSD system.

(Reason: Ensure compliance)

143. Domestic Waste Collection Agreement with Council

Prior to the issue of any Occupation Certificate, the developer is to enter into a formal agreement with Council for the utilisation of Council's Domestic Waste Collection Service. This is to include Council being provided an easement for unimpeded access to and from the waste collection locations for council and its servants/ contractors to enter and exit for the purpose of waste recycling collection. The development is also required to indemnify Council and its servants/contractors against claims for loss or damage or wear and tear of access roads or to other parts of the building.

Note: By entering into an agreement with Council for waste collection, the development will be required to operate in full compliance with Council's Waste Management collection requirements.

The provision of Council's waste collection service will not commence until formalisation of the agreement.

(Reason: Legal Requirement)

144. Private Waste Collection Service

Prior to the issue of any Occupation Certificate, the developer is to enter into a formal agreement with a licenced private waste contractor to service the non-residential component.

Prior to entering into an agreement for a private waste collection service, the developer is to ensure that:

- (a) The service is functional and meets the operational needs of the development
- (b) The service minimises environmental nuisances including noise and other adverse impacts on the safety and amenity of residents and the public.
- (c) Council has been provided with indemnity against claims for loss or damage, should they take over the service at some point in the future.

A copy of the contract is to be forwarded to Council prior to the issue of any Occupation Certificate.

(Reason: Ensure compliance)

PRIOR TO THE RELEASE OF LINEN PLANS/SUBDIVISION CERTIFICATE

The following conditions are to be complied with prior to the issue of the Subdivision Certificate and the release of the Linen Plans for registration at the Land Registry Services.

145. Location of On-Site Detention System

The locations of the as-built on-site stormwater detention system(s) shall be shown on the final plan of subdivision/strata plan. Access to the system, including access points to any underground tank, shall be located in common areas.

(Reason: Ensure compliance)

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

146. Annual Fire Safety Statement

Attention is directed to Clause 177 of the *Environmental Planning and Assessment Regulation 2000* regarding the submission of an Annual Fire Safety Statement in relation to each essential fire safety measure implemented in the building or on the land on which the building is situated.

(Reason: Safety)

147. Waste Management Collection Policy

The development must operate in full compliance with Council's Waste Management collection requirements. This includes collection by Council HRV on the following frequencies:

- Garbage: Twice per week.
- Recycling once per week.
- Garden organics once per week.
- Bulky waste booked service.

(Reason: Environmental protection/waste reduction/public health and safety)

148. On-site Car Parking

The on-site car parking provision of 34 car parking spaces and 3 motorbike spaces are to be permanently available for the life of the development.

The car parking spaces shall be distributed as follows:

28 residential car spaces (of which 3 are adaptable car spaces)
5 residential visitor car spaces
1 commercial/retail car space
Plus 1 loading / delivery bay

All spaces must be clearly and visibly marked on site for their intended use as parking for residents, visitors, disabled, office and retail or loading bay.

The basement levels comprising of retail, loading bay, visitors and residential car spaces must be accessible to residents, visitors and retail/business staff and clients at all times.

The basement level/level car parking comprising of residential car parking spaces must only be accessible to residents at all times.
(Reason: Ensure Compliance)

149. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the base building's services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the *Protection of the Environment Operations Act 1997* and cause no interference to adjoining or nearby occupants.

In the event of a noise or vibration problem arising, the person in charge of the premises shall when instructed by Council, cause to be carried out, a review of the acoustic report by an appropriately qualified acoustical consultant and submit the results in a report to Council.

If required by Council, any or all of the recommendations of the consultant, and any additional requirements of Council, shall be implemented to Council's satisfaction.
(Reason: Amenity)

150. Stormwater Treatment System – Ongoing Maintenance

The registered proprietor of the land shall take full responsibility for the ongoing maintenance of the Stormwater Treatment System constructed on the land. The maintenance of the system is to be undertaken in accordance with the recommendations of "Guidelines for the Maintenance of Stormwater Treatment Measures" published by Stormwater NSW or other relevant guidelines or publications.
(Reason: Ensure compliance)

151. Vehicle Access

Servicing of the site by vehicles is to occur in the loading area, with the maximum size vehicle to service the site is to be as per the Vehicle Management Plan prepared for the site, with the vehicle to be at least an SRV as per AS/NZS 2890.2. Waste collected by Council vehicles may be collected from street level in Ellis Street.
(Reason: Management of vehicles)

152. Vehicle Access Direction

All vehicles shall enter and leave the site in a forward direction. No vehicle is to reverse over the front boundary to the site.
(Reason: Pedestrian and vehicle safety)

153. Traffic Management System

The traffic management system provided for all single lane vehicle access shall be operational at all times. Maintenance is to be undertaken in accordance with the manufacturer's requirements and recommendations.
(Reason: Vehicle safety)

154. Noise Control – Offensive Noise and Vibration

To minimise the noise and vibration impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

(Reason: Amenity)

155. Waste Management Plan (WMP) Implementation

The approved WMP is to be implemented throughout the ongoing use of the development.

(Reason: Environmental protection/waste reduction/public health and safety)

156. Waste Management Collection Policy

The development must operate in full compliance with Council’s Waste Management collection requirements

(Reason: Environmental protection/waste reduction/public health and safety)

157. On-Site Collection Point

The nominated on-site collection point is to be utilised to facilitate the collection of waste and recycling bins for the non-residential component. The on-site collection point is to be kept clear of obstructions at all times so not to restrict the collection of waste and recycling bins.

(Reason: Environmental protection/waste reduction/public health and safety)

158. Kerbside Collection Point

The nominated kerbside collection point is to be utilised to facilitate the collection of waste and recycling bins for the residential component. All mobile garbage bins that are left kerbside for collection must be taken back within the property boundary on the same day of service.

(Reason: Environmental protection/waste reduction/public health and safety)

159. Public Art

For the purposes of contributing to the social, cultural and economic vitality of the Willoughby LGA, the public art shall be maintained and managed in accordance with Council’s Public Art Policy.

(Reason: Ensure compliance with Council’s Public Art Policy)

160. Licensed Waste Collection

All businesses must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.

(Reason: Environmental protection/waste reduction/public health and safety)

161. Management

Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection system and must clearly identify everyone’s role and responsibility. This is to include:

- (a) Responsibility for cleaning and maintaining waste storage bins and containers.
- (b) Responsibility for cleaning and maintaining waste storage room.
- (c) Responsibility for the transfer of bins to the nominated collection point.
- (d) Method of communication to new tenants and residents concerning the developments waste management system.
- (e) Cleaning up and management of bulky waste.
- (f) Responsibility for maintaining the compost bin or worm farm.

Where the development incorporates strata title subdivision, the by-laws are to clearly set out the management responsibilities for the developments waste and recycling system.

(Reason: Environmental protection/waste reduction/public health and safety)

162. Waste Storage Containers

No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.

(Reason: Environmental protection/waste reduction/public health and safety)

163. Signage

Adequate signage is to be provided and maintained on how to use the waste management system and what materials are acceptable for recycling within all waste storage areas of the development. Signage is also to be provided and maintained which clearly identifies which bins (and containers) are to be used for general waste and recycling and what materials can be placed in each bin.

(Reason: Environmental protection/waste reduction/public health and safety)

164. Waste Chute Contingency

Where the waste management system incorporates the use of a waste chute system, a contingency plan should be in place for the development to allow for the continual disposal and collection of waste if the chute cannot be operated.

(Reason: Environmental protection/waste reduction/public health and safety)

PRESCRIBED CONDITIONS

The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.

165. Compliance with National Construction Code

All building works must be carried out in accordance with the performance requirements of the National Construction Code.

(Reason: Compliance)

166. Support for Neighbouring Buildings

- (a) If development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on an adjoining property, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the building, structure or work from possible damage from the excavation, and
 - (ii) if necessary, underpin and support the building, structure or work to prevent any such damage, and
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (c) In this clause, "allotment of land" includes a public road and any other public place.
- (Reason: Safety)

STATUTORY REQUIREMENTS

The following advisory notes are statutory requirements of the Environmental Planning & Assessment Act and the Environmental Planning & Assessment Regulations and are provided to assist applicants.

167. Construction Certificate

This consent IS NOT an approval to carry out any building works. A Construction Certificate may be required PRIOR TO ANY WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

168. Notify Council of Intention to Commence Works

In accordance with the provisions of Section 6.6 of the *Environmental Planning and Assessment Act 1979* the person having the benefit of the development consent shall appoint a Certifier and give at least 2 days' notice to Council, in writing, of the person's intention to commence the erection of the building.

(Reason: Information and ensure compliance)

169. Occupation Certificate

The building/structure or part thereof shall not be occupied or used until an occupation certificate has been issued in respect of the building or part.

(Reason: Safety)

