

| | |
|------------------------------|---|
| JRPP No: | 2010SYE051 |
| DA No: | DA-2010/467 |
| PROPOSED DEVELOPMENT: | Construction of a residential flat building with 44 units and underground parking for 56 vehicles. - 260 Penshurst Street, North Willoughby |
| APPLICANT: | Mr Rod Hills |
| REPORT BY: | Annie Leung, Senior Assessment Officer, Willoughby Council |

Assessment Report and Recommendation

260 Penshurst Street, NORTH WILLOUGHBY NSW 2068

JRPP Ref: 2010SYE051

DA NO: DA-2010/467

ATTACHMENTS:

- 1. RECOMMENDED CONDITIONS**
- 2. NOTIFICATION & SUBMISSIONS MAP**
- 3. PLANS & ELEVATION (AS AMENDED 25 OCT 2010)**
- 4. SUBMISSION ISSUES**

MEETING DATE: 25 NOV 2010

RECOMMENDATION: DEFERRED COMMENCEMENT APPROVAL

LOCATION: 260 PENSHURST STREET, NORTH WILLOUGHBY NSW 2068.

APPLICANT: PROPERTY DEVELOPMENT CORPORATION

PROPOSAL: CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING WITH 43 UNITS WITH BASEMENT CAR PARKING.

DATE OF LODGEMENT: 23-JUL-2010

REPORTING OFFICER: ANNIE LEUNG

RESPONSIBLE OFFICER: IAN ARNOTT

Description of development

Development application 2010/467 seeks consent for the construction of a residential flat building containing 43 dwellings. It will provide:

- 33 x 1 bedroom units;
- 9 x2 bedroom units;
- 1 x 3 bedroom units; and
- 56 car parking spaces (including 11 visitor car spaces)

The proposed development comprises two buildings, identified as Building 1 and Building 2. The buildings are separated by 4.5m. Car parking spaces are provided over two basement levels with access off Penshurst Street near the northern boundary of the site (under Building 1).

Building 1 is approximately 20m in width to the street frontage, and has its length parallel to the northern boundary of the site adjacent to No 266 Penshurst Street. It accommodates 22 units. Entry to the Building 1 is provided between the proposed buildings.

Building 2 is approximately 37m in length to Penshurst Street. It accommodates 21 units. The building provides two separate entries to its two lift lobbies from Penshurst Street, and direct entries from the street to its street facing ground floor units.

Relevant History

Three (3) development applications have been lodged with Council for the development of the site for purposes of residential flat buildings as outlined below:

DA2009/694 was lodged with Council for the construction of a residential flat building development comprising 50 dwellings. This application was withdrawn by the applicant subsequent to discussions with Council's officers who raised issues of concern about the density, height, poor internal amenity of the proposed dwelling, and unacceptable external impacts.

DA2010/202 was lodged with Council for construction of a residential flat development comprising 40 dwellings. This application was reported to the JRPP and reviewed by the Panel at its meeting held on 21 July 2010. The Panel deferred the determination of this application at its meeting, and resolved that the panel would approve the application subject to amendments to the proposal as recommended by the assessment officer, particularly with respect to increasing the setbacks of the uppermost level of the proposed development from respective site boundaries. An amended proposal has been received by Council on 17 Sept 2010 showing the requested amendments, and the application was subsequently determined by the Panel on 1 October 2010. The Panel approved the application subject to conditions as recommended by Council's officers.

Current application

The current application was lodged with Council on 23 July 2010. Council's officers had a briefing session with the JRPP on 9 Sept 2010, and the following additional information received by Council during the course of assessment was submitted to the JRPP at this meeting:

- Amended landscaped proposal (Drawing LPDA 10-405/1);

- Amended ground floor plan (Issue C);
- Photomontage (1 page + 1 disk);
- Model perspective drawings (3 pages);
- Additional information on waste management/bin movement (prepared by Strata Choice – 3 pages);
- Turning template for loading bay with SRV (1 drawing and 1 page statement)
- Information on “Turfcell” (4 pages); and
- Calculation plans for Site coverage and Soft Landscaped area (2 pages)

Council's Letter 17 Sept 2010

Council's officer issued a letter to the applicant on 17 Sept 2010 with respect to issues of concern raised in respect to the proposed development, and advised the applicant that the proposal in its current form would not be supported by Council's officer due to the unacceptable bulk and scale of the proposed development, and recommending withdrawal of the application. Discussion was held between Council's Officers and the applicant on 20 Sept 2010 regarding the issues raised on Council's letter dated 17 Sept 2010.

Amended plans 24 Sept 2010

On 24 September 2010, the applicant submitted an amended proposal incorporating amendments as follows:

- *Break between Building 1 and Building 2 increased from 3m to 4.5m*
- *Main entries to Building 2 reconfigured to address Penshurst St*
- *As a result of reconfiguration of main entries the number of apartments reduced from 44 to 43 (30 x 1 bed, 12 x 2 bed, 1 x 3 bed)*
- *Various landscape amendments associated with the above*

The amended proposal is accompanied by a response letter to issues raised by Council's letter dated 17 Sept 2010, and additional information on waste removal.

Amended plans 25 Oct 2010

A further meeting was held between Council's officer and the applicant on 18 October 2010. The meeting discussed the critical issues with respect to:

- the bulk of the development, including the encroachment on the required front setback by Building 1;
- the length of Building 2, including its upper level setbacks, materials and articulations;
- the operations of the proposed loading and turning area near the northern boundary of the site, and associated landscape amenity.

Subsequently, an amended proposal was submitted to Council on 25 Oct 2010, incorporating the following amendments:

- Provide new turntable for Small Rigid Vehicle. Increase quantity of landscaping where vehicle manoeuvring space has been reduced.
- Changes to landscaping to better define the entries to Building 2, and increase common planters adjacent to entries.
- Amend design of street facing balconies of Building 1

- Changes to Units 3.07, 3.08, 3.09 on the uppermost level associated with changes to street façade, and increased setbacks from the street and northern boundaries.
- Changes to Unit 3.17 on the uppermost level to increase setback of Building 2 from the side boundary (southern boundary)
- Changes to soffit/roof line of Building 2 to break up its visual length by providing recess/gaps complementing the delineation of balcony frame below (450mm wide)
- Change colour of the rendering of the middle frame on Building 2 to further break down the length of the building by greater emphasis on the modules/bays of the building façade

Photomontage 1 Nov 2010

Subsequent to further discussion with Council's officer, the applicant has changed the material of the middle frame of Building 2 from masonry to hung/clip-on panel cladding to provide greater differentiation of the modules/bays on the building façade. The changes are accompanied by revised photomontages. The submitted photomontages also illustrate two colour options for the proposed panelling. A revised schedule of finishes has been submitted. **(Condition 8)**

Site Context

The site is located on the western side of Penshurst Street between Clanwilliam Street and Church Street. The development site is a vacant allotment identified as Lot 1 DP 1046059 with a site area of 2973m² and over 70m of frontage to Penshurst Street. The site is zoned Residential C. It has a cross fall of approximately 2.5m from the northern boundary towards its southern boundary.

Penshurst Street is a major public transport corridor serviced by state buses. The nearest bus stop is approximately 20m north of the site on Penshurst Street near the intersection with Church Street. The site is in close proximity to neighbourhood shops, existing churches, and is directly opposite the Willoughby Legion Club. There is an existing signalised pedestrian crossing near the southern boundary of the site.

The site is known to be the former Dairy Farmers' factory, but was demolished with consent DA1999/503. An amendment was made to the WLEP 1995 to permit additional development purposes on the land for a place of public worship. Subsequent development consent, DA2002/538 was granted for redevelopment of the site for new community & worship centre with basement carpark, but the development consent has not been acted upon and has lapsed.

The locality of the site mainly comprises of established medium density and residential flat building developments envisaged by the 2(b) and 2(c) zoning of the area. Developments immediately adjoining its southern and northern boundaries are three (3) and four (4) storey residential flat buildings. However, properties at No 1, 3, & 5 Clanwilliam Street adjoining the southern (rear) boundaries of the site remain as low scale developments due to the local heritage listing of these properties.

The northern boundary of the site adjoins No 266 Penshurst Street, which is a public housing estate built around 1994-1995. It is a corner allotment at the intersection of

Church Street and Penshurst Street. The building at the site is 4 storeys in height, with the lowest level primarily used for car parking. Its street elevation along Penshurst Street modulates from its front building line. The eave line and roof forms of the development vary with these modulations. The front setback area of the property is open form, with a large retained lawn area and a few large mature trees screening parts of the building façade.

The southern boundary of the site adjoins No 240 Penshurst Street, which is a small residential flat building built between 2004 and 2005. It is an isolated allotment on the corner of Clanwilliam Street and Penshurst Street, which fails to amalgamate with adjoining properties due to adjoining heritage items on Clanwilliam Street, and the size of adjoining site at No 260 Penshurst Street. The development is identified to be 3 storeys in height by the original assessment report despite some parts of its basement car parking level protruding above ground level as built. The building comprises of two interlocking rectangular prisms with pitch roofs, and small dormer windows. The building mostly addresses the Clanwilliam Street frontage of the site. The landscaping within the front setback area of the site comprises retained lawn areas, and screen planting.

The north western boundary of the site adjoins No 2 -4 Church Street, which is a residential flat development built around 1973. It has no frontage on Penshurst Street. The building has three joining wings, and is sited at approximately 60 degree to its street boundary on Church Street due to its narrow street frontage.

Neighbour Notification

The application was notified from 29 July 2010 to 31 August 2010. Seven (7) Submissions were received in this period. The issues raised in the submissions primarily relate to the likely impacts of the proposed development to the adjoining heritage items with frontage on Clanwilliam Street, traffic and parking in the locality, and the proposed landscaping along the boundaries of the site. Subsequent amended proposals are not considered to create additional impacts to adjoining properties. As such, renotification of the application is not considered necessary.

A list of the correspondence and issues raised in their submissions are provided in Attachment 3. Discussion of these issues is provided under the Neighbour Notification Issues section of this report.

Referrals

The application has been referred to the following internal and external departments.

Internal

| | |
|----------|--|
| Building | Standard conditions of consent are recommended. |
| Waste | A number of waste removal options have been discussed with the applicant, particularly in deriving a practical method of moving waste bins from the basement waste room to the street level for collection/ removal. The main issue of concern relates to the ability to tow bulk bins along steep 1 in 4 sections of the proposed driveway. Several options including the use of towing vehicles, bin removalist vehicle and various forms of motorised hand operated bin towing machines were considered. The amended proposal and additional information received indicates |

| | |
|--|--|
| | that a modified motorised tow machine will have the ability to negotiate the gradient of the proposed driveway subject to conditions. (Condition 4 & 119) |
| Development Engineering | The submitted stormwater plans are required to be amended in accordance with the recommended deferred commencement conditions. |
| Traffic | The proposed development is generally satisfactory. The plans as originally submitted do not show the radius of the curve ramps to the basement car parks. This information has now been provided and found to be satisfactory. Also see assessment under Part C.4 of WDCP of this report. |
| Environment Health | Due to known previous industrial/production history of the site, a preliminary site assessment report has been requested from the applicant. Based on the submitted site assessment report, Council's Environmental Health Officer is satisfied that the site can be remediated and made suitable for the proposed development. Condition 31 & 54. See SEPP 55 assessment. |
| Landscaping | <p>Council's landscape officer raised no objection to the proposed removal of trees, which is consistent with recent approval DA2010/202. However, the assessment of the original proposal also raised the following issues of concern.</p> <ul style="list-style-type: none"> <i>A large amount of hard open space is associated with the driveway entrance and truck parking/ turning areas. The provision of grass cell pavers to this area is not considered adequate to provide a softening of the building bulk and landscaped setting to the street frontage.</i> <i>Similarly, there are 6 paved entrances to the proposed development fronting Penshurst St with minimal planter beds and largely paved courtyards within the front landscape setback.</i> <p><i>In view of the length of the street frontage and bulk of the built form fronting Penshurst St, it is considered that the landscaping proposed is inadequate to meet the landscape requirements of such a development.</i></p> <ul style="list-style-type: none"> <i>Planting beds in the south western corner of the site are narrow with hard paving and gravel drying areas adjacent to the local heritage items at 1 – 5 Clanwilliam St. The planting shown is not considered adequate to provide sufficient separation from the impact of the proposed development to these heritage items.</i> <p>These issues have been subsequently resolved by the amended proposal and recommended conditions. See assessment under - Part C.9 – Landscaping of the WDCP. (Condition 4)</p> |
| Heritage | <p>The submitted Heritage Impact Statement has been assessed by Council's Heritage Architect. The proposed development as amended is found to have acceptable impacts to adjoining local heritage items and heritage items in the vicinity of the site.</p> <p>See further discussion under WLEP - Heritage Impacts Assessment.</p> |
| External Roads & Traffic Authority | <p>RTA has reviewed the proposed development with respect to Clause 104 of SEPP (Infrastructure) – Traffic Generating Development, and has also given concurrence to the development with respect to s138 of the Roads Act 1993 subject to conditions being imposed on the consent (Condition 10, 50 & 51)</p> <p>See further discussion under SEPP (I) Assessment.</p> |
| Police (CPTED) | The application has been referred to NSW Police – NS LAC Chatswood station. Police recommended amendments to the proposal. The applicant has adopted the |

recommended changes in the amended proposal, particularly with respect to the widening of entry to Building 1 and orienting entries of Building 2 to the street.

See assessment under Part C.11 of WDCP.

SEPP 65 The application has been referred externally to an independent Urban Design consultant, Architectus, for assessment in accordance with SEPP 65. A number of recommendations from the Urban Design consultant have been discussed with the applicant, and subsequently incorporated in the amended proposal.

The proposal's compliance with the numerical controls/rules of thumbs contained in the Residential Flat Design Code are provided in the Development Statistics section of this report

See assessment under SEPP 65 for further discussion.

CONTROLS AND CLASSIFICATION

- i) Willoughby LEP 1995: Yes, Applicable.
- ii) Conservation Area: Not in conservation area, but adjoins local heritage items at No 1, No 3 & No 5 Clanwilliam Street, and also in the vicinity of local heritage items No. 10 – 12 Clanwilliam Street and No 238 Penshurst Street.
- iii) Zoning: 2(c) – Residential C
- iv) Applicable DCP (SEPPs, REPs): SEPP 1, SEPP (Basix), SEPP 65, SEPP 55, SEPP (Infrastructure)
- v) S94 Contribution Plans: Yes, See **Condition 12**.
- vi) Draft WLEP 2009 Zoning: R3 – Medium Density Residential

DEVELOPMENT STATISTICS

| | Proposed | Standard | Compliance |
|--|---|--------------------------|---|
| WLEP 1995 | | | |
| Site Area (m²) (Clause 22 WLEP) | 2973m ² | 1100m ² | Yes |
| Gross Floor Area (m²) | 998.43 987.87 937.49 506.88 = 3430.67m ² | 2675.7m ² | No (NB: SEE nominate diff GFA (3241.7m ²) to submitted GFA plans) |
| Floor Space Ratio (Clause 23 WLEP/ D3.1 WDCP) | 1.15:1 | 0.9:1 | No |
| Height (Clause 24 WLEP/ D3.2 WDCP) | 4 Storeys | 3 Storey | No |
| Minimum allotment width for RFB development with frontage to state road (Clause 22 WLEP) | > 70m at front building line | 27m frontage @ bldg line | yes |
| Draft WLEP 2009 | (Exhibited 25 March – 20 May2010) | | |

| | Proposed | Standard | Compliance |
|---|---|---|---|
| Floor Space Ratio (Area L) | 930.11 958.21 903.69 470.21 = 3262.22m ² FSR = 1.097:1 | 0.9:1 | No |
| Height (Area M) | Up to 13.1m | Max 12m | No |
| Minimum Allotment Size (Clause 6.8) | 2973m ² | Min 1100m ² | Yes |
| Frontage (Clause 6.8) | >70m | 27m at front building alignment | Yes |
| WDCP | | | |
| Car Spaces (C.4) Car spaces (Major Public Transport Corridor – Penshurst St South of Victoria Ave) | 56 car spaces (including 11 visitor over two level of basement with no separation or security from other car spaces) On grade for a SRV with turntable | 1 bedroom- 1 space (33) 2 bedroom- 1 space (9) 3+ bedroom- 1.25 spaces (1.25) Visitor - 1 per 4 dwlgs (10.75) Req = 54 car spaces Loading bay for removalist truck for RFB with >15units | Yes. Also see Condition 5 Yes |
| Motorbikes | 2 | 1 /25 car spaces (1.2x3m)(req 2.24) | Yes |
| Bicycle lockers Bicycle Racks (Additional Req C4.7) | Bike storage area shown on Basement 1 – North and Basement 2. No bike rack shown. | 1/ 10 dwlg (req 4.3) 1/12 dwlg (req 3.58) | Condition 4 |
| Water Management (C.5) | Stormwater proposal submitted. | OSD requirements and technical standards | See Def.comm conditions |
| Access/Mobility (C.6) Adaptable housing (C6.3) | 15 units (35%) + 3 adaptable car space | 50% adaptable dwlg >3 storeys (ie. 21.5 dwellings)/ plus 5 accessible space for 20 – 25 adaptable units | No. Condition 6 |
| Accessibility | See submitted accessibility report | To and within every floor containing a dwelling required to be adaptable. | Yes |
| Visitor Disabled car space | 1 disabled car space | 1 accessible visitor's space in parking area with more than 50 spaces. | Yes |

| | Proposed | Standard | Compliance |
|-----------------------------------|--|--|--|
| Waste Mgt (C.8) | Bin room on upper basement level and proposed to be towed by powered tools up ramp for collection from street level. (Max ramp 6.25m @ 1:4) | RFB >18 units Bulk bins service & recycling service (garbage room) Recycling receptacle within each unit | Please refer to comments from Council's Waste Coordinator. |
| Soft Landscaped area (C.9) | 1095.8m ² (36.9%) – Basement area is substantially within the building footprint above, except for the proposed ramp leading from Basement 1 to Basement 2, which is at least 1.5m below ground level. | 35% (1040.55m ²) (50% must be recreational open space. See Part D3.6) 500mm min soil depth above slab | Yes Yes |
| Safer by Design (C.11) | Amended plans received 24 Sept 2010 and 25 Oct 2010 orientates the entries to Building 2 to the street, which was one of the main issues of concern raised by the Safer By Design requirements. | Assessment by NSW Police. | See Assessment under Part C.11 |
| Fencing (C.13) | 1.8m setback 2.5m from street boundary | 1.1-1.6m at b'dy 1.6 – 1.8m (setback 1m from b'dy) | Yes |
| Contaminated land (C.13) | Preliminary site investigation report submitted for previous Dairy Farmer Factory use. | SEPP 55 | Yes, subject to conditions of consent. |

| | Proposed | Standard | Compliance |
|--|---|--|--|
| Design/Streetscape (D3.3) | <p>The development presents contemporary façade to Penshurst Street with prominent balcony frames differentiated by a composition of applied cladding, and rendered masonry.</p> <p>The internal elevation and elevations facing the heritage items have more subdued architectural language, including the use of more recessive/neutral colour materials, and mansard roof forms on the southern elevation of Building 2 and south and south western elevation of Building 1.</p> | <p>Sensitive to the surrounding characters & existing street pattern</p> <p>Within 5° roof pitch of surrounding developments</p> | Please refer to SEPP 65 assessment. |
| Site coverage (D3.4) | 1094.7m ² (36.8%) | 28% - 4 Storey | No. See assessment under D3.4 of WDCP. |
| Setbacks (D3.5) | | | |
| Front (Penshurst St) | balconies encroach at 5.625m (bldg 1)/ 6.125m(bldg 2) 7.5m to wall/glassline 9.125m (bldg 1) – 11.06m (bldg 2) (4 th floor) | 7.5m/ Streetscape- | No. See assessment under D3.5 of WDCP. |
| Side (N) Adj No 266 Penshurst Street | 6m 5.4m 5.4 – 9.26m (3 rd) 8.905 – 12.16m(4 th) | 3m (Ground) 4.2m 2 nd Storey 6.6m 3 rd 6.6m 4 th Storey | Yes Yes No Yes |
| Side (SE) Adj No 240 Penshurst Street | 4.820m 4.825m 6.395 – 7.32m (3 rd) 10.925 – 12.59m (4 th) | 3m (Ground) 4.2m 2 nd Storey 6.6m 3 rd 6.6m 4 th Storey | Yes Yes No Yes |
| Rear (SW) Adj No 1 Clanwilliam Street | 6.78m 6.87m 7.56m (3 rd) 9.395m(4 th) | 3m (Ground) 4.2m 2 nd Storey 6.6m 3 rd 6.6m 4 th Storey | Yes Yes Yes Yes |
| Rear (W) Adj 2-4 Church Street & No 7 Clanwilliam Street | 5.32m 5.38m 7.21 – 7.305m (3 rd) 9.145m (4 th) | 3m (Ground) 4.2m 2 nd Storey 6.6m 3 rd 6.6m 4 th Storey | Yes Yes Yes Yes |

| | Proposed | Standard | Compliance |
|---|--|---|--|
| Distance between buildings (D3.5) | | Eave Height x 1.5m | No, but also see SEPP 65 assessment |
| Side (SE) No 240 P St | 8 – 10m | 1.5 x 10.5 = 15.75m | |
| Side (N) No 266 P St | 9 – 12m | 1.5 x 10 = 15m | |
| Recreational open space (%) (D3.6) | 1720m ² (57%) | 54% (4 Storey) of site area | Yes |
| | >80% | (80% of rec open space must be in the form of outdoor open space) | Yes |
| Private open space (D3.6) | | | |
| Ground floor units | Complies except Unit 1.05, 1.06, & 1.07. | 35/50/60m ² for 1/2/3-bedroom dwlgs Principal area min. 20m ² Width 4m min. | No, but complies with RFDC. |
| Above ground units | 10m ² and 15m ² min | 10/10/15m ² for 1/2/3-bedroom dwlgs Principal area min 10m ² Width 2.4m min Access from Living Rm. | Yes |
| Communal open space | 974.82m ² | 30m ² x no. above ground units (30 x 31) = 930m ² | Yes |
| | >5m | Min 5m in width | Yes |
| | From 11am – 3pm | 3 hours of winter solar access to principal portion | Yes |
| | 5x7 = 42m ² | Children play area of Min 30m ² & min 5m in width | Yes |
| Privacy (D.3.7) | Acoustic report submitted. | Acoustic insulation – external noise Common wall separation Visual Privacy | Condition 30 |
| Views & Vista (D3.8) | Appreciation of adjoining local heritage items (cottages) are not considered to be affected. Reasonable outlook from adjoining RFB is maintained. | Views to Local Heritage items and general out look from adjoining RFB. | See assessment under by Council's Heritage Architect |

| | Proposed | Standard | Compliance |
|--|---|--|---|
| Solar Access (D3.9) | <p>3 hours solar access to adjoining properties with frontage on Clanwillaim Street betw 11am – 3pm</p> <p>No impacts to No 2 -4 Church street or 266 Penshurst Street</p> <p>3 hours to north facing balconies and windows from first floor and above for No 240 Penshurst Street betw 9 and 12 noon</p> <p>Impacts to the private open space of ground floor Unit 1 from 10:30am.</p> | 3 hours of winter solar access to adjoining properties | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No. See assessment section of the report</p> |
| Services & Amenities | <p>Not identified</p> <p>Internal for each unit</p> <p>30.9m²</p> <p>Adjacent car spaces</p> <p>Basement 1 - North</p> <p>1m setback from street b'dy and with planting</p> <p>Not identified</p> | <p>Letter boxes</p> <p>Laundry</p> <p>Drying yard 10m² for first 2 dwlg + 2.5m² per additional dwlg Req = 2.5(31-2)+ 10 = 82.5m²</p> <p>Storage area – 3m²</p> <p>Common toilet</p> <p>Substation</p> <p>TV antennae/ Satellites</p> | <p>Condition 96</p> <p>Yes</p> <p>No. Condition 4</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Condition 98</p> |
| Sustainable development (also see C.3) | Submitted | Scorecard/Basix/SEPP65 | Yes |
| Reflectivity (D3.12) | External cladding appears to include metallic cladding as viewed from Penshurst Street. | Reflectivity – Max 20% | Condition 9 |

| SEPP 65 (RFB Code) | | | |
|---------------------------|---------------------|---|---|
| Part 1 | | | |
| Building type | Courtyard apartment | - | - |

| | | | |
|--|--|---|-----------------------------------|
| Building envelope | Building envelope based on Site coverage requirement at 30% and 3 storey height restriction represent 100% of the achievable floor space at 0.9:1. | Building envelopes should be at least 20-25 percent greater than their achievable floor area to allow for building articulation. | No |
| Primary Dev Control | | | |
| Height | 4 storey | 3 Storey | No. See SEPP 1. |
| Depth | 14 – 19m | 10 - 18m (daylighting and natural ventilation are to be achieved) | No. See SEPP 65 assessment. |
| Building Separation | | | |
| Side (SE) No 240 P St | 4.82 – 12.59m | up to four storeys/12 metres | No. See SEPP 65 assessment. |
| Side (N) No 266 P St (2.8 to 3m from common b'dy) | 5.4m – 12.16m | <ul style="list-style-type: none"> - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms | |
| Part 2 | | | |
| Deep soil zone | 886.83m ² | Min. of 25% of the open space area of the site | Yes |
| Fences & walls | No fencing along street boundary. 1.8 high fencing to private courtyards within front setback area are setback 2.5 – 3.8m | Various (pp 45 of RFDC) | Yes |
| Landscape design | Amended proposal presents improvement to both landscaping within front setback area and increased screen planting along site boundaries. | Various (pp46-47 of RFDC) | Yes |
| Open space | | | |
| Communal Open Space | 32% | 25-30% of site area | Yes |
| Private open Space (G/podium units) | >25m ² and min 4m in width | 25m ² ; Min width 4m. | Yes |
| Planting on structure | | Various (pp53 of RFDC) | |
| Stormwater management | Submitted stormwater proposal with OSD located south of Bldg 2 | Various (pp 54-55 of RFDC) | No. See def Comm Conditions. |
| Safety | Amended proposal substantially addressed issues of concern raised in CPTEP assessment | Carry out a formal crime risk assessment for all residential developments of more than 20 new dwellings. | See assessment under C.11 of WDCP |

| | | | |
|--------------------------------|--|---|---|
| Visual Privacy | Location and design of proposed balconies and windows have taken appropriate consideration of visual privacy between the proposed dwellings and adjoining properties | (See Building separation) | Yes |
| Building entry | <p>The amended proposal provides separate entries to Building 1 and Building 2 directly from the street and from car parking areas</p> <p>Access report identifies the development complies with various access requirements with respect to 1428, including 70% barrier free access</p> <p>6.305m wide driveway</p> | <p>Identify the access requirements from the street or car parking area to the apartment entrance.</p> <p>Australian Standard AS 1428</p> <p>barrier free access to at least 20% of dwlg</p> <p>Driveway width max 6m & away from main pedestrian</p> | <p>Yes</p> <p>No, but considered minor and acceptable given its adequate separation from pedestrian entries</p> |
| Part 3 | | | |
| Apartment layout | <p>Up to 8.5m</p> <p>Up to 8.5m</p> <p>Min. 4m in width</p> <p>Min 50.6m² – 1bed Min 81.7m² – 2 bed Min 109.2m²</p> | <p>Single-aspect apartments depth max 8 metres from a window.</p> <p>The back of a kitchen max 8 metres from a window.</p> <p>The width of cross-over or cross-through apartments over 15 metres deep should be min. 4 metres</p> <p>apartment sizes: - 1 bedroom - 50m² - 2 bedroom - 70m² - 3 bedroom - 95m²</p> | <p>No, but lighting and ventilation requirements have been achieved.</p> <p>Yes</p> <p>Yes</p> |
| Balconies | Min 2m in width | Provide primary balconies for all apartments with a minimum depth of 2 metres. | Yes |
| Ceiling heights | Min 2.7 and 2.4m | <p>2.7 metre minimum for all habitable rooms on all floors</p> <p>2.4 metres for all non-habitable rooms</p> | Yes |
| Ground floor apartments | Separate entries provided to all street | Optimise the number of ground floor apartments | Yes |

| | | | |
|--|--|--|--|
| | <p>facing ground floor apartment except U1.05 & 1.06.</p> <p>Private open space provided to all ground floor apartments</p> <p>35% adaptable</p> | <p>with separate entries</p> <p>Provide ground floor apartments with access to private open space</p> <p>Appropriate percentage of accessible units.</p> | |
| Internal circulation | Max 4 units | <p>Max 8 units accessible from a single core/corridor</p> <p>Amenity for common lobbies, corridors and units</p> | Yes |
| Storage | Storage provided in association with car parking and internal built in storage areas | <p>- studio apartments 6m³</p> <p>- one-bedroom apartments 6m³</p> <p>- two-bedroom apartments 8m³</p> <p>- 3 plus bedroom apartments 10m³</p> | Yes |
| Acoustic Privacy | See submitted acoustic report | BCA and road noise | Condition 30, 88, & 89 |
| Day light access | 31 units (70%) receiving at least 3 hours of solar access to habitable rooms and living spaces at mid-winter, and only three units (less than 10%) being primarily south facing single aspect. | <p>70 % of Dwlg's Min 3 hours winter solar access</p> <p>Single-aspect SW-SE apartments to a max. 10 % of dwlg's</p> | Yes |
| Natural ventilation | <p>14 – 19m</p> <p>38 units (86%) being naturally cross ventilated and 13 units (30%) having naturally ventilated kitchens.</p> | <p>10 to 18m (Bldg Depth)</p> <p>60% of dwlg with natural cross ventilation (Units)</p> <p>25% of kitchens with natural ventilation</p> | <p>No. See SEPP 65 assessment.</p> <p>Yes</p> <p>Yes</p> |
| Façade | Contemporary design with strong balcony framed vertical modules and lightweight roof forms setback from these balcony frames and lower levels. | Various (pp 89-92 of RFDC) | Yes. Amended proposal further breaks up the visual length of the building façade as viewed from Penshurst Street |
| Roof design | | | |
| Energy efficiency | See submitted Basix | Various (pp 93 -97 of RFDC) | Yes |
| Maintenance | | | |
| Water management & Water Conservation | | | |

1) *FSR calculations:*

- The amended proposal received by Council on 25 Oct 2010 reduced the FSR of the development from 1.19:1 to 1.15:1.
- Draft WLEP: Note that height and gross floor area definitions used in Draft WLEP 2009 is different to existing WLEP 1995. This results in the discrepancies in the statistics. The definitions in Draft WLEP are based on the Standard Instrument. The definitions in current WLEP 1995 apply to the development and further considered under the SEPP 1 assessment.

2) *SEPP 65 & WDCP controls:* Part D.3 of WDCP contains a number of controls with respect to separation distance between buildings, private open spaces, balcony widths which are in excess of the minimum requirements contained in SEPP65. It is noted that the application has addressed the controls in both the WDCP and SEPP 65. Where the proposal only presents minor departures from the requirements of the WDCP, but complies with the requirements of SEPP 65, it is reasonable to consider the proposal to have achieved a reasonable standard of design and amenity.

- *Separation Distance:* Part D.3.5 stipulates greater separation distance than SEPP65, which prescribes separation distance between buildings based on height and the functions of rooms/windows rather than a linear relationship between height and separation distance. The proposal presents minor variations to the SEPP 65 requirements. Please see assessment under SEPP 65.
- *Balcony width:* The proposed balconies are minimum 2m in width in accordance with SEPP 65 requirements. The minor variation from the requirements of Part D3.6 which requires balconies to be 2.4m in width is considered acceptable.
- *Ground floor private open space:* Part D3.6 requires the provision of 35m² and 50m² of private open space for 1 bedroom and for 2 bedroom ground floor units respectively. The proposed Unit 1.05, 1.06, & 1.07 do not meet this requirement, but meet the requirements of SEPP 65. The sizes of the private open space of these units are considered adequate in size and dimensions to provide for outdoor living. Unit 1.07 is directly adjacent to the large communal open space for extension of outdoor living.
- *Storage space:* Storage areas are measured by m² in the WDCP, which does not reflect the volume of the storage space. The proposed dwellings meet the requirements of SEPP 65 and are considered to have adequate storage space for each dwelling.

3) *Car Parking (C.4 - WDCP):* The proposed development provides car parking spaces in excess of the requirements of Part C.4, based on car parking rates for developments on Major Public Transport Corridor. Under Part C.4 excess car parking can be included as Floor Space as a disincentive to additional development parking. The excess car spaces are a result of the reduction of the

number of units and the change in dwelling mix by the amended proposal received on 24 Sept 2010, and 25 Oct 2010.

It is recommended that the one excess car space be deleted resulting from recommended changes to the location of visitor car spaces, and adaptable/accessible car spaces. Please refer to assessment under Part (Transport requirements) C.4, (Mobility & Accessibility) C.6 and (Safer by Design) C.11 of WDCP. **(Condition 5)**

Matters for Consideration Under S.79C EP&A Act

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

| | | |
|----------|--|-----|
| (a)(i) | The provisions of any environmental planning instrument (EPI) | ✓ ✗ |
| | State Environmental Planning Policies (SEPP) | ✓ |
| | Regional Environmental Plans (REP) | ✓ |
| | Local Environmental Plans (LEP) | ✓ |
| | Comments; Subject to deferred commencement conditions. | |
| (a)(ii) | The provision of any draft environmental planning instrument (EPI) | |
| | Draft State Environmental Planning Policies (SEPP) | N/A |
| | Draft Regional Environmental Plans (REP) | N/A |
| | Draft Local Environmental Plans (LEP) | ✓ |
| | Comment: The proposal shows non-compliance with development standards contained in Draft WLEP 2009, including FSR and Height as discussed in the Assessment section of this report. | |
| (a)(iii) | Any development control plans | |
| | Development control plans (DCPs) | ✓ |
| | | |
| (a)(iv) | Any matters prescribed by the regulations | |
| | Clause 92 EP&A Regulation-Government Coastal Policy | N/A |
| | Clause 93 EP&A Regulation-Fire Safety Considerations | ✓ |
| | Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings | N/A |
| | | |
| (b) | The likely impacts of the development | |
| | Context & setting | ✓ |
| | Access, transport & traffic, parking | ✓ |
| | Servicing, loading/unloading | ✓ |
| | Public domain | ✓ |
| | Utilities | ✓ |
| | Heritage | ✓ |
| | Privacy | ✓ |
| | Views | ✓ |
| | Solar Access | ✓ |
| | Water and draining | ✓ |
| | Soils | ✓ |
| | Air & microclimate | ✓ |
| | Flora & fauna | ✓ |
| | Waste | ✓ |
| | Energy | ✓ |
| | Noise & vibration | ✓ |
| | Natural hazards | N/A |

| | | |
|-----|---|---|
| | Safety, security crime prevention | ✓ |
| | Social impact in the locality | ✓ |
| | Economic impact in the locality | ✓ |
| | Site design and internal design | ✓ |
| | Construction | ✓ |
| | Cumulative impacts | ✓ |
| | | |
| (c) | The suitability of the site for the development | |
| | Does the proposal fit in the locality? | ✓ |
| | Are the site attributes conducive to this development? | ✓ |
| | | |
| (d) | Any submissions made in accordance with this Act or the regulations | |
| | Public submissions | ✓ |
| | Submissions from public authorities | ✓ |
| | | |
| (e) | The public interest | |
| | Federal, State and Local Government interests and Community interests | ✓ |
| | | |

ASSESSMENT

WLEP 1995

Residential Flat Development

The site is located within the Residential C zone (Clause 14D & 14F). Development for the purposes of residential flat building is permissible with consent. ***Residential flat building*** means a building containing two or more dwellings whether attached or detached and includes buildings commonly known as town houses and villa houses.

The general objectives of Medium and high density residential areas—Zones 2 (b), 2 (c), 2 (d) are:

- (a) *To allow for increased residential density in accessible locations, while minimising the potential for adverse impacts of such increased density on the efficiency and safety of the road network, and*
- (b) *To encourage innovative design in providing a comfortable living environment which also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.*

Other relevant provisions in the WLEP include:

- Aims and Objectives of the WLEP (Clause 2);
- Tree and bushland preservation order (Clause 13C);
- Amenity (Clause 13D);
- Objective of Floor Space Ratio Control (13E); and
- General Objectives for Residential Zones (Clause 14)

The specific objectives of the Residential C zone are:

- (a) To accommodate a variety of medium density housing, including such types as walk-up flats and town houses, which are compatible with the scale and character of the surrounding residential area, and*
- (b) To enable the provision of appropriate communal recreation facilities for use by residents.*

The objectives of the Residential C Zone are supported by the following development standards in the Plan:

- Minimum Allotment Size (Clause 22);
- Floor Space Ratio (Clause 23); and
- Height (Clause 24)

The proposed development is in breach of the FSR and Height standards. A SEPP 1 Objection has been submitted for each of these breaches. The objections are further considered below.

SEPP 1 Objections

A. Floor Space Ratio

The applicant objects to the FSR standard contained in Clause 23(b) of the WLEP, which prescribes a maximum FSR of 0.9:1 (Gross floor area = 2675.7m²) for the erection of a residential flat building in the 2(c) zone. The original proposal seeks variation for a FSR of 1.19:1. Subsequent amended proposals seek to reduce the bulk and scale of the development, by deletion of one unit, conversion of proposed 2 bedroom units to one bedroom units, and reduction of the fourth storey (third level) of Building 1 and Building 2.

The proposed development as amended has a FSR of 1.15:1. (Gross floor area = 3430.67m²).

The objectives of the FSR standards are contained in Clause 13E of WLEP, which states:

- (a) to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,*
- (b) to limit traffic generation as a result of that development,*
- (c) to limit the bulk and scale of that development.*

Extent of the breach

The SEPP 1 objection submitted with the original proposal asserts that the proposed corridor areas/ lift lobbies shall be excluded from the calculation of gross floor area and floor space ratio. Revised calculation plans' accompanying the amended proposal received by Council on 25 October 2010 has now included these areas as floorspace, and shows a FSR of 1.15:1.

Grounds for Variation

The development proposal is designed with an attic with the floor area contained in the roof space being 547m² of floor area (being less than 60% of the level below) and does not contribute to additional amenity impacts to the surrounding properties.

The exclusion of the floor area contained within the roof space from the FSR calculation results in an FSR of 0.9:1 and the development proposal complies with the FSR development standard.

Comments:

The applicant seeks to accommodate additional floor space in accordance with provision contained in Part D3.2 of the WDCP, which refers to the use of habitable room in the roof space as follows (page D70):

Habitable rooms within the roof space may be permitted with a SEPP 1 objection to the height control standard and not counted as a storey, provided that the attic space is part of the dwelling immediately below and the resultant roof form will not:

- cause undue overshadowing of adjacent properties and open spaces;*
- cause undue loss of significant views from adjacent residential properties; or*
- be excessive in scale and bulk relative to the rest of the building.*

The definition of attic space to be excluded as a storey and associated restriction of maximum attic floor area to be 60% of the floor below (in addition to other criteria) does not imply that additional floor space can be accommodated above the maximum permissible floor space defined by Clause 23 of the WLEP, but intends to restrict the bulk and scale of any roof forms containing attic floor space relative to the rest of the building parts. The proposed 4th storey does not comply with the definition of attic floor due to the proposed roof forms being inconsistent with surrounding developments.

Building envelope based on site coverage requirement at 30% and 3 storey height restriction represent 100% of the maximum floor space ratio at 0.9:1. See calculation below.

| |
|--|
| $30\% \text{ (site coverage)} \times 2973 \text{ (site area)} \times 3 \text{ (storeys)} = 2675.7\text{m}^2 \text{ (FSR 0.9:1)}$ |
|--|

To allow for modulation of the external walls and to meet other FSR objectives in RFDC, FSR should only be about 80% of the building envelope (recommended by RFDC). To achieve these objectives, the current FSR and height control need to include an attic floor. See calculation below:

30% (site coverage) x 2973 (site area) x 0.8 (80% building envelope) x 3 (storeys) + 0.3x 0.6 x 0.8 x 2973 (attic level at 60% of the level below) = 2140.56 (3 storeys at 80%) + 428.112 (attic level) = 2568.67m² (FSR 0.864:1)

Based on the above, there is no justification to exceed the FSR control solely based on the additional floor area of the proposed development on the fourth level is 60% of its third level. The attic provision contained in the WLEP and WDCP are not considered determining factors in the consideration of the proposal's SEPP 1 objection against the FSR control. As further discussed below, the overall bulk and scale of the proposed development, including its lower levels are relevant this consideration.

The development proposal is compatible with the scale of adjoining residential flat buildings. 240 Penshurst Street contains a 3 – 4 storey building on a site area of 658m², 266 Penshurst Street is 4 storeys on 1660m² and 2-4 Church Street is 4 storeys on 1609m².

The bulk and scale of the development presents continuity of building form in this locality.

Comments: The applicant does not provide any details on how the bulk and scale of the adjoining development is a “continuity” of the bulk and scale is established between the proposed development and adjoining sites.

A preliminary investigation into adjoining development reveals that the proposal is of higher density than adjoining sites as outlined below:

| Address | Site Area | No of unit | Site area/dwlg | FSR |
|------------------------|--------------------|---------------------------|----------------------------|----------------|
| 260 Penshurst Street | 2973m ² | 44 units | 67.57m ² /dwlg | 1.19:1 |
| Amended 24/09/10 | - | 43 units | 69.14m ² /dwlg | Not calculated |
| Amended 25/10/10 | - | 43 units (incl 20 x 1bed) | 69.14m ² /dwlg | 1.15:1 |
| Approved DA2010/202 | - | 40 units | 74.34m ² /dwlg | 1.13:1 |
| Adjoining developments | | | | |
| 266 Penshurst Street | 1660m ² | 18 x 2 bedroom units | 92.2m ² / dwlg | Not available |
| 240 Penshurst Street | 658m ² | 6 units | 109.67m ² /dwlg | 0.89:1 |
| 2 -4 Church Street | 1609m ² | 15 units | 107.27m ² /dwlg | Not available |

The site is located within the 2(c) zone, but adjoins a 2(b) zone. Both zones permits Residential Flat Buildings, but are subject to different density and height control. (ie. 0.9:1 cf 0.7:1, and 3 storeys cf 2 storeys) All the abovementioned properties adjoining the site are within the 2(c) zone. The site also adjoins a number of heritage items, being cottages that are of much smaller scale than the proposed development. In this regard, it is not considered appropriate to state that the proposed development is to be of the same scale and density as adjoining development, but must be made compatible with adjoining and surrounding development, including the Penshurst Street streetscape as further discussed below.

The development proposal has adequate deep soil landscape area surrounding the subject site accommodating canopy tree planting around the perimeter of the building ensuring it time the building will be viewed between the tree canopy.

Comments: The proposed variation to the FSR control is not considered to significantly reduce the availability of area for deep soil planting and the planting of suitable canopy trees. The quality and quantity of deep soil planting for the site is considered acceptable.

The additional floor area does not result in unreasonable amenity impacts including overshadowing, loss of views or privacy impacts. The shadow diagrams prepared by Collins Taylor Architecture show that the adjoining residential dwellings will maintain 3 hours of solar access to the main living areas and private open space at mid winter. The privacy/separation between buildings is addressed by the design and landscaping.

Comments: The development is considered to have maintained an acceptable standard of amenity to adjoining properties in terms of solar access, and privacy. There are no significant views identified to be unreasonably affected by the proposed development. Distant views from upper levels of No 2 -4 Church Street currently relied upon the site being vacant, and cannot be reasonably retained by any redevelopment of the site for the purposes of residential flat building.

The additional floor area does not impact in the heritage curtilage or setting of the cottages at 1 – 5 Clanwilliam Street., North Willoughby.

Comments: The proposed development does not share street frontage with the adjoining local heritage items. However, the western elevation of proposed Building 2 and the southern elevation of proposed Building 1 will form part of the heritage items' backdrop when viewed from Clanwilliam Street. Based on the siting and design of the proposed development, the visual bulk of the proposed development resulting from the additional floor space as originally proposed is considered to have greater impacts to the Penshurst Street frontage of the site. This issue of concern have been addressed by subsequent amended proposals, which reduced the bulk and scale of the proposed development to an acceptable form.

The additional floor area will not result in unreasonable traffic and parking impacts on the surrounding streets. The traffic report submitted with the application found that the traffic generation is acceptable and there is adequate on-site parking.

Comments: In the case of a residential flat building, the traffic generation of the development shall be measured based on the number of proposed dwellings which determines the number of vehicle trips. In this regard, the traffic generation of the proposed development and its car parking provisions are acceptable for the proposed 43 units.

Considerations/Recommendations

As commented above, despite the numerical non-compliance with the FSR standard, the proposed development is considered to have met the objectives a) (Environmental/Site Capacity) and b) (Traffic Generation) of Clause 13E –Objectives of FSR controls. The main issues of concern with respect to the proposed development's breach of the FSR standard originally related to the bulk and scale of the development, and consequential visual impacts to adjoining properties and the existing streetscape.

During the assessment process, the assessment officer held a number of discussions with the applicant with respect to the bulk and scale of the development, in which the main issues of concern relate to:

- a) The visual bulk of Building 1 as viewed from Penshurst Street, particularly those parts of Building 1 encroaching on the required 7.5m front setback.
- b) Visual break and separation relating to the adequacy of separation between Building 1 and 2, and the length and scale of Building 2 as viewed from Penshurst Street
- c) The bulk and mass of the uppermost level of Building 1 and Building 2

The amended proposal received by Council on 25 Oct 2010 is considered to have substantially resolved these issues of concern as outlined below:

a) Front Setback (Building 1)

The protrusion of proposed Building 1 forward of Building 2 interrupts the length of the development, but it also accentuates the bulk of Building 1 in addition to the proposed reduced setback and balconies' encroachment on the required front setback of 7.5m. The expression of the proposed balconies as originally proposed also adds to the visual mass of the building by presenting a strong street wall to Penshurst Street.

The amended proposal received by Council on 25 October 2010 substantially revised the building façade, and increased the setback of the uppermost level of Building 1. The setback of the uppermost level of Building 1 increases from 7.625m to 9.125m from the street boundary and from 7.3m to 8.905m from the northern boundary of the site. This allows the uppermost level to be visually recessed from the street façade of the development, and is not considered to unreasonably contribute to the visual bulk of the building as viewed from Penshurst Street.

The amendments also include changes to the delineation of the façade/balcony modules of Building 1. As amended, the street facing balconies are setback from the corners of the building, and are articulated from the parapet wall. This helps to visually relate the front building line of the development as framed by the parapet wall/balustrade and building corners at 7.5m from the street boundary and not the balcony line at 5.625m. Whilst the proposed balconies as amended still encroach on the required 7.5m front setback, they are no longer on the same building plane as the general front building line nor represent unreasonable bulk when viewed from Penshurst Street. The reduction of these balconies from the corner of the building also helps to increase the visual separation between Building 1 and Building 2 as

viewed from the street, as well as reducing the visual bulk of Building 1 as viewed from No 266 Penshurst Street and from the north of the site on Penshurst Street.

b) Visual breaks & Building modulations

To ensure the bulk and scale of the proposed buildings are proportional to the site's dimensions, and visually compatible with adjoining and surrounding development, there must be sufficient visual breaks and modulations of the built forms. Assessment of the original proposal raised concerns with respect to the visual bulk of Building 1, inadequate separation between Building 1 and Building 2, and the length and scale of Building 2 as viewed from Penshurst Street being incompatible with adjoining and surrounding developments.

The amended proposal received by Council on 24 Sept 2010, increases the separation distance between Building 1 and Building 2 from 3m to 4.5m, and further amendments to the balconies of Building 1 as discussed above point a) shown on the amended proposal received on 25 Oct 2010 also helps to increase the perceived separation of the buildings by setting back the proposed balconies from the separation/gap between the buildings. It is noted that the parapet of Building 2 between structural bay No 5 and No 6 is also setback from the general front building line, and is designed with lighter weight materials and darker colour to complement the visual break between the proposed buildings. The wider recessed setbacks from the general front building line are considered effective in emphasising the visual separation of the proposed buildings, and reduces the visual impression of Building 1 and Building 2 being a continuous "wall" along Penshurst Street.

The amended proposal received by Council on 25 Oct 2010 also shows amendments to further break up the scale of Building 2, and its 37m length as viewed from Penshurst Street, by changes to the materials and colour of the middle frame of Building 2, between structural bay No 8 and No 10, and by extending the vertical breaks between proposed module/frames of the building façade to the roof line to create greater emphasis on the vertical elements of the building façade in contrast to its length.

The submitted photomontage received by Council on 1 Nov 2010 illustrates some of the amendments described above, and demonstrate greater visual separation, visual breaks and interests and building modulations than the proposal as originally submitted. It is considered that the gap between Building 1 and 2 as amended, is still less than what would be normally required for building separation based on SEPP 65 requirements, but the proposed separation at 4.5m together with other amendments are considered to satisfy concerns relating to the bulk and scale of the proposed development by reducing the visual perception of Building 1 and Building 2 as a continuous building mass along Penshurst Street. Amenity related issues with respect to the gap between Building 1 and Building 2 are further discussed under the relevant headings throughout this assessment report.

c) Uppermost levels

The applicant seeks to adopt the proposed height standard in the draft WLEP for the proposed development, which translate the current 3 storeys height standard into a 12m height control. However, as commented above, the fact that the building

envelope is larger than the FSR is not a reason to exceed the FSR, given a large envelope simply represents a reasonable level of building modulation and articulations. It must also be noted that the FSR standard for the Draft WLEP stays at 0.9:1, and the proposed development also exceeds the site coverage control. During assessment of the application, Council's assessment officer raised concerns that the proposed variation to the FSR standard at 1.19:1 has resulted in unacceptable building bulk along the street frontage of the site, and the extent of the uppermost level of the proposed buildings contributes to the excessive bulk, and visual mass of the development. The length of the uppermost level on Building 2 as originally proposed was approximately 29m, and the front setback of the uppermost level on Building 1 was 7.625m and with balconies encroaching on the required front setback at 6.5m.

The amended proposal received by Council on 25 Oct 2010 shows a reduction of the proposed 4th storey of Building 1 and Building 2 by increasing the setback of the uppermost level of Building 2 from the southern boundary of the site to 10.925 and up to 12.59m (increased by 2.3 to 2.78m from original scheme), increasing the front setback of the uppermost level of Building 1 to 9.125m (increased by 1.5m), and increasing setback of Building 1 to 8.905m from the northern boundary (increased by 1.605). The increased setback from the southern boundary of the site is reflective of the finer grain and smaller developments to the southern boundary of the site, including No 240 Penshurst Street, and the natural fall of the land towards its southern boundary. These amendments are also considered to reduce the visual bulk of the development as viewed from Penshurst Street from both the southern and northern directions, and subsequently reduce the overall FSR of the development to 1.15:1.

Conclusion

The assessment's officer's concerns of the unacceptable bulk and scale of the original proposal primarily arise from the development's presentation to Penshurst Street. As discussed above, the proposal as amended substantially addresses these initial concerns. Whilst the development as amended is still numerically breaching the FSR standard contained in Clause 23(b) of the WLEP, its objectives contained in Clause 13E are considered to have been met, including objective (c), which is to limit the bulk and scale of developments.

Whilst the degree of the development's variation to the development standard alone is not a determinative consideration for the application, it is noted that the current proposal as amended is approximately 59m² more than the recently approved residential flat development DA2010/202 for the same site. The approved development has taken a similar approach in siting of built forms as the current development, whereby additional floor space is accommodated within a connecting built element (setback from the street frontage of the site) between a northern building wing (with similar siting to the currently proposed Building 1) and a southern building wing (with similar siting to currently proposed Building 2). The separation between proposed Building 1 and Building 2 as proposed by the amended proposal is found to be acceptable from an internal amenity perspective as further discussed under assessment against SEPP 65.

Based on the above, it is recommended that the development's SEPP 1 objection to the FSR standard be approved by the Panel, given the development's numerical breach of the standard will not hinder its ability to satisfy the objectives of the standard as prescribed by Clause 13E of the WLEP.

B. Building Height

The applicant objects to the height standard contained in Clause 24 of the WLEP, which prescribed a maximum height of 3 storeys for residential flat developments.

Storey is defined in Clause 5 of the WLEP provided below:

storey, in relation to a building, means the space between any 2 successive floors, or the space between natural ground level and any floor immediately above that level, or the space between any floor and its ceiling or roof above. Any such space that exceeds 3.5 metres in height is counted as 2 storeys. The following spaces are not to be treated as storeys for the purposes of this definition:

- (a) spaces where the ceiling of that floor or level is less than 1 metre above natural ground level at all points,
- (b) in the case of an existing building, an attic with a floor area that does not exceed 60% (including lift towers and plant rooms) of the floor area of the level below. Such an attic is excepted only if it does not alter the pitch or profile of the roof of the building except by the inclusion of dormer or similar windows,
- (c) in the case of a proposed building, an attic with a floor area that will not exceed 60% (including lift towers and plant rooms) of the floor area of the level of the building immediately below. Such an attic is excepted only if it will not result in the pitch or profile of the roof of the building or height of the eaves being inconsistent with the roofs or eave height of surrounding buildings (disregarding the inclusion of dormer or similar windows for the purpose of comparison).

The storey definition needs to be cross-referenced to the definition of *attic* also defined in Clause 5 of the WLEP, and provided below:

Attic means a habitable space totally within the roof space of a dwelling, or of a building including a dwelling, being a dwelling that occupies all or a substantial part of the level of the building immediately below the habitable space and of which dwelling the habitable space is part.

Whilst the objectives of the height control are not explicitly stated in the WLEP, it is assumed that the control seeks to support the objectives of the 2(c) zone, and corresponds with the intent and performance criteria of Part D3.2 Density and Height of the WDCP, in particular:-

The height of the building must ensure that:

- solar access and overshadowing objectives for adjoining properties are complied with;
- views from neighbouring dwellings are not unduly compromised; and
- the building height does not overwhelm the public street and is of compatible scale with surrounding developments.

Extent of the breach

The proposed buildings are both 4 storeys in height in the 2(c) residential zone, which has a 3 storey height limit. The 4th storey has a floor area of 506.88m² which represents 46.3% of the building footprint/site coverage of the proposed development, and approximately 54% of the floor area of the level below.

Grounds for objection

The development proposal is compatible with the scale of adjoining residential flat buildings at 240 Penshurst Street, 266 Penshurst Street and 2-4 Church Street.

Comments: The maximum height of the proposed development is not inconsistent with the ridge height of adjoining residential flat developments. Whilst the uppermost level of the development as originally proposed is considered to be greater in bulk and scale than the conventional pitched roof forms of adjoining developments, this issue of concern has been addressed by subsequent amendments to the proposal, and is also considered acceptable with respect to the SEPP 1 objection to the FSR standard as discussed above.

The component of the building which technically constitutes 4 storeys will not result in unreasonable amenity impacts to the adjoining properties with regard to overshadowing, loss of views/outlook or privacy impacts.

Comment: The impacts from those parts of the proposed development that are 4 storeys in height are not considered to result in unreasonable overshadowing impacts or privacy impacts to adjoining properties.

The building height steps with the topography and there is articulation in height with the upper level setback compared to the level below breaking the visual dominance of the building height.

Comment: The proposal as amended 25 Oct 2010 increased the setbacks of the uppermost level of Building 1 from the street. The uppermost level of Building 1 is setback at 9.125m with balconies at 7.5m and the uppermost level of Building 2 is setback at 11.05m with balconies at 7.5m as measured from the street boundary of the site.

The upper most level of the building is contained within a mansard roof form with the building presenting as three (3) storeys and compatible with the building form in Penshurst Street.

Comment: The development presents as a 4 storey development as viewed from Penshurst Street. The mansard roof form provided on the southern and western elevations of Building 1, and the western elevation of Building 2 are considered to mitigate the visual bulk and privacy impacts of the proposed development to adjoining properties in the south and south west, including adjoining heritage cottages.

The upper level of the building will not be highly visible from the heritage cottages at 1-5 Clanwilliam Street ensuring there is adequate visual separation between the

upper levels of the building ensuring the bulk and scale impacts to these single storey properties is acceptable.

Comment: The proposed Building 1 is separated from the heritage cottages by over 25m, and its uppermost level setback another 4.5m from the level below. The uppermost level of Building 2 is setback at 8.2m (as measured from the edge of the mansard roof to boundary) from its common boundary with No 1 Clanwilliam Street.

Considerations/Recommendations

The proposed development, despite its numerical non-compliance with the height standard is not considered to unduly compromise solar access, and views from adjoining properties. During the assessment of the application, the assessment officer raised concern that the fourth storey as originally proposed would overwhelm the public street and was incompatible with the scale of adjoining buildings due to the lack of progressive setback for the increase of height for Building 1 and the length of the fourth storey of Building 2 as proportional to the rest of the building. Amended proposal received by Council on 25 Oct 2010 as commented above, has subsequently addressed these issues of concern by increasing the setbacks of the uppermost level of Building 1 and reducing the length of the uppermost level of Building 2 as viewed from Penshurst Street.

Conclusion

Buildings do not have to be the same height to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape. In this regard, the existing development context on Penshurst Street, Clanwilliam Street and Church Street comprises a range of older residential flat developments, which include a mix of both 3 and 4 storey buildings.

The development's non-compliance with the height control is not considered to create unacceptable impacts to adjoining properties, including the adjoining heritage items. The external impacts of the breach of the height standard alone are limited to its contribution to the development's building bulk, and have been addressed by the amended proposal received by Council on 25 Oct 2010. Thus, strict compliance with the height standard is not considered reasonable or necessary in the circumstances of the development.

Heritage Impacts (Clause 58 & 59)

The site is not located within a conservation area nor is it identified to be a heritage item, but the site adjoins local heritage items at No 1, No 3 & No 5 Clanwilliam Street, and also in the vicinity of local heritage items No. 10 – 12 Clanwilliam Street and No 238 Penshurst Street. The items are listed under Schedule 7 of the WLEP as having local heritage significance, as well as in the Draft WLEP 2009.

- No 1 Clanwilliam Street (also known as Kia Ora) is a single storey cottage with rendered brickwork and metal roof. The item is representative of late Victorian architecture.

- No. 3 & 5 Clanwilliam Street (also known as Bloomsfield) is a pair of single storey semi-detached cottages with architectural aesthetic significance.

No 1, 3 & 5 Clanwilliam Street adjoin the south western boundaries of the site.

- No. 10 – 12 Clanwilliam Street is a church complex containing significant buildings known as the Manse (two storey building) and the original Uniting Church building. The site is currently undergoing redevelopment and restoration works. This item has no common boundary with the site, and is approximately 40m away from the south western boundary of the site.
- No 238 Penshurst Street (also known as Forsyth House) is a single storey Federation style dwelling. This item has no common boundary with the site, and is approximately 40m away from the southern boundary of the site.

In accordance with the requirements of Clause 59 of the WLEP, a heritage impact statement has been submitted with the application. The HIS includes photographs and detailed descriptions of each of the heritage items. Council's Heritage Architect is satisfied that the proposed development as amended will have acceptable impacts to the heritage significance of the adjoining heritage items and heritage items in the vicinity of the site.

Public appreciation of the subject local heritage items are primarily from their street frontages on Clanwilliam Street. The proposed residential flat building falls into the backdrop of the properties at No 1, 3 & 5 Clanwilliam Street and is unlikely to visually dominate views to these heritage items. The proposed development does not visually relate to views to the properties at No 10 & 12 Clanwilliam Street or 238 Penshurst Street.

Draft WLEP 2009

Draft WLEP 2009 applies to the whole of the City of Willoughby. It was publicly exhibited from 25 March to June 2010. The development standards contained in the Draft WLEP with respect to Building Heights, Floor Space Ratio, Heritage and Conservation for the proposed development are considered equivalent to existing standards in the current WLEP.

The proposed R3 – Medium Density Residential zoning also permits the proposed residential flat development. However, the definitions of Height of Building and GFA in the Draft WLEP are based on the Standard Instrument—Principal Local Environmental Plan, and result in numerical discrepancies as noted in the Development Statistics table of this report. The changes in definitions with respect to the proposed development are considered as follows:

- GFA in the Draft WLEP is measured from the internal face of an external wall when compared to the current definition which refers to measurements from the external face of walls. The extent of FR non-compliance is less when measured with the Draft WLEP definition (1.097:1 cf 1.15:1); and

- In the Draft WLEP, the measure of building heights is not restricted by the definition of *storey* or *attic*, but restricted to 12m maximum height measured from existing ground to the highest point of the building (including lift overruns). The proposed Building 1 is in breach of the height standard in the Draft WLEP by approximately 400 - 1100 mm for that part of the building fronting Penshurst Street. The proposed Building 2 is in breach of the height standard in the Draft WLEP by approximately 200 – 400mm for that part of the building accommodating the upper level of proposed Unit 3.17 and Unit 3.18. Please refer to submitted drawings numbered DA0601, Issue E and DA0602, Issue E.

SEPP (Infrastructure)

Traffic Generation (Clause 104)

Pursuant to Clause 104 of the SEPP (Infrastructure), the proposed development with basement car parking to accommodating 60 car spaces and access from a classified road (Penshurst Street) is identified to be traffic generating development in Schedule 3 of the SEPP. The application has been referred to the Roads and Authority for assessment, and also for concurrence in respect to s138 of the Roads Act 1993 for the proposed vehicular access on Penshurst Street. The authority has granted concurrence to the proposed development subject to **Condition 10, 50 & 51**. RTA also considers the traffic generation by the proposed development is “low volume” with no great impact on Penshurst Street.

The submitted traffic report prepared by Varga Traffic Planning P/L dated July 2010 notes the daily volume of vehicles on Penshurst Street is estimated to be 29,000-30,000 vehicles per day (north and south bound). (pp.19). Based on RTA’s *Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation*, the proposed development is estimated to generate a potential of approximately 13 vehicle trips per hour during commuter peak periods. This is not considered to cause any unacceptable traffic implications in terms of road network capacity. (pp. 20)

In addition, the proposed development provides sufficient car parking spaces in accordance with the requirements of the Part C.4 of the WDCP. A loading bay is also provided to allow for occasional loading access such as removalist vans and couriers. Please also see assessment under Part C.4 of the WDCP.

Noise and Vibrations (Clause 102)

The site is affected by road noise from a classified state road, Penshurst Street and is subject to requirements of Clause 102 of SEPP (Infrastructure) with respect to Impact of road noise or vibration on non-road development.

The application is accompanied by a Preliminary Traffic Noise Assessment report prepared by PKA Acoustic Consulting dated 8/7/2010. The report provides limited noise survey, but the survey sampled peak pm traffic along Penshurst Street, and demonstrated that the proposed dwellings will exceed the requirements of AS2107-2000.

Council’s Environmental Health officers recommends that conditions of consent be imposed to ensure the noise criteria required by SEPP (I) are met, including further development of acoustic treatment prior to issue of construction certificate and

acoustic certification prior to occupation of the development with respect to *AS2107:2000 – Acoustics – Recommended design sound levels and reverberation times for building interiors*; and *Department of Planning (2009) Development near Rail Corridors and Busy Roads – Interim guideline*. (**Condition 30, 88, & 89**)

SEPP 55 (Remediation of Land)

The site is known to be last occupied by the Dairy Farmer's factories, which were demolished with consent in 1999. A preliminary site assessment report has been requested from the applicant to ensure the site can be suitably remediated from the previous industrial use and made suitable for the proposed residential development.

Council's Environmental Health Officer has reviewed and is satisfied with the findings of this report, and recommends that the recommended remediation measures in the report be imposed as conditions of consent. (**Condition 31 & 54.**)

SEPP 65 (Design Quality of RFB)

The proposed development is a 'residential flat building' as defined by Clause 3 of SEPP 65, and is required to meet the Design Quality Principles and the Residential Flat Design Code of the SEPP. The proposed development is designed by a qualified designer and a Design Verification Statement by a registered architect has been submitted as required by the SEPP. Council has engaged an external Urban Design consultant to carry out an independent assessment of the proposal against the requirements of SEPP 65.

Council's Urban Design consultant made the following recommendations as quoted in italics with respect to the original proposal, and comments from the assessment officer with respect to the subsequent amended proposals:

1. Building entry

- *The proposed building entry to Building 2 (at the rear of the building) is not considered appropriate with respect to pedestrian amenity or safety. It is recommended the entrances to Building 2 should directly address Penshurst Street.*
- *The main pedestrian entrance area from Penshurst Street between Building 1 and 2 is narrow and relatively small scaled in relation to the number of people using it. It is recommended that this entrance area be widened and should provide entry only to Building 1.*

Comments: The original proposal has a single entry point between Building 1 and Building 2 narrowly bounded by 4 storey walls on either side and is further reduced in width by the proposed water feature and landscaping. It has little natural surveillance from the street or internally from the development, and will have almost no natural lighting. The amended proposal received on 24 Sept 2010 altered the layout of Building 2 in order to provide direct access to the lift lobbies of Building 2 from the street. The distance between Building 1 and Building 2 has also increased to 4.5m. These amendments are considered to improve users' amenity and safety, and the development's identity/address on the streetscape. Increased setback of building structures away from the passage way at the front building line and amendments to

the layout of the entry lobby to Building 1 as shown on the amended proposal received by Council on 25 Oct 2010 also further improves the security, and the overall amenity of this entry area.

2. Scale and built form

- *The redesign of the entries to Building 2 to face Penshurst Street should be used as an opportunity to further articulate the Penshurst Street façade. The redesign of the façade should aim to present Building 2 as a number of smaller scale elements of a similar width to other nearby residential developments on Penshurst Street. In addition, the separation between Building 1 & 2 should be greater to provide a more generous entry for Building 1 and to break up the perceived length of the development from Penshurst Street.*
- *Building 1 should be reconfigured so that the path between the two buildings offers views through to the common open space from the street, reinforcing the appearance of the development as two separate buildings. This amendment will also assist in reducing the perceived bulk and scale of the development from Penshurst Street.*

Comments: The redesign of entries to Building 2 as shown on the amended proposal received by Council on 24 Sept 2010 was not complimented with further articulation to the building façade. Subsequent discussions between Council's officer and the applicant has resulted in the submission of further amended plans on 25 Oct 2010, which show reduction of the length of the uppermost level, change to the material of the middle frame of Building 2, and appropriate breaks in the eave line of Building 2.

With respect to recommended changes to Building 1's entry, it is considered difficult to create direct sightline from the street to the common open space from the entry to Building 1. This is due to site level difference between the street footpath level, and level of the common open space. Necessary security gates and fencing and similar structures will also obscure any sightline for pedestrians into the common open space. However, the increased width of the entry to Building 1, and substantial changes to its façade, particularly the increased setback of the building corners away from the entry area provides a greater sense of openness to the entry. The separation of the two buildings will be framed by the ability to see the sky between the roof forms/fourth storey of the buildings, and also the subtle changes to the architectural language of the two buildings as amended.

3. Safety and security

Additional security doors/gates should be provided to each foyer/breezeway to allow for appropriate controlled access to each portion of the building and provide adequate security for residents.

Comments: The original proposal applied to exclude all foyers and corridor areas (breezeways) from the calculation of Gross floor area and Floor Space Ratio calculation on the basis that the foyers and corridor areas are not fully enclosed and are naturally ventilated. However, the lack of access control resulting from such proposition was considered unacceptable from a safety and security perspective that was supported by Safer By Design assessment by NSW Police. Security gates are

now shown on the amended proposal received by Council on 25 Oct 2010 for all of the proposed foyers. (Also see assessment under Part C.11 of the WDCP)

4. Street access

The provision of direct street access to Unit 1.05 and 1.06 should be investigated by the applicant.

Comments: The amended proposal deleted a turning area directly in front of Unit 1.05, which allows direct access to this Unit from the street. (**Condition 4**). However, direct access to Unit 1.06 will be prevented by the access ramp to the main building entry to Building 1.

5. Landscaping and open space

- *It is recommended that the perimeter landscaping, particularly at the boundary between the site and the heritage properties to the south, be increased to at least two metres. This will reduce the visual impact of the proposal from properties on Clanwilliam Street.*
- *The landscape plan shows a wall between the paved and grassed area of private open space of Units 1.03 and 1.04. This wall should be removed on the plans.*

Comments: The amended landscape plan accompanying the amended proposal received by Council on 25 Oct 2010 shows the increase in the screen planting strip along the southern boundary of the site adjoining the heritage cottages to 1.4m in width. The landscaping strip along the south western boundary of the site adjoining No 1 Clanwilliam Street has increased to 2m.

6. Apartment layout

- *The internal configuration of Units 1.01 and 1.02 should be modified so that the primary living spaces are orientated to a larger area of the private open space to take advantage of the dual-aspect of these apartments.*
- *Unit 1.06 should be reconfigured so that the bedroom window does not face the water feature and main site entry thoroughfare. This may require reconfiguration of this apartment.*

Comments: The living areas of Units 1.01 and 1.02 are orientated to a partly covered outdoor area of over 25m². These areas will facilitate the principal outdoor entertainment activities for these units. Redesigning the layouts of these units will result in orientating living areas to the western boundary rather than the north and the south, where there is more planting, outlook and solar access for these units.

Rules of thumbs

The proposal's numerical non-compliances with the "rules of thumbs" contained in the RF Design Code are considered minor, and acceptable as assessed by Council's Urban Design Consultant and quoted in italic below:

- *The proposed building depth is considered appropriate. The building depth of Building 1 ranges between 14 and 19 metres. Where the depth exceeds 18 metres, apartments are dual-aspect, providing sufficient daylight access and natural ventilation. Building 2 ranges in depth from 14 to 17 metres.*

- *With respect to privacy and apartment amenity, adequate building separation distances are provided between the proposed buildings and adjoining residential dwellings and apartments. Where the proposed development is less than the minimum separation distance, no windows or balconies have been provided to those façades.*

WDCP

General Development Guidelines - Part C

Part C of Willoughby DCP contains the general development guidelines for developments. As noted in the Development Statistics, the proposal generally complies with the relevant provisions of Part C of WDCP, and where appropriate is addressed by recommended conditions of consent.

Transport provisions (C.4)

Car Parking (C.4 - WDCP): The proposed development provides car parking spaces in excess of the requirements of Part C.4, based on car parking rates for Major Public Transport Corridors. The objective of the car parking control in Part C.4 refers to meeting the car parking demand generated by developments, but also to encourage the use of public transport and reduce car dependency. Under Part C.4 excess car parking can be included as Floor Space as a disincentive to additional development parking. The excess car spaces are results of the reduction of the number of units and the change in dwelling mix by the amended proposal received 24 Sept 2010, and 25 Oct 2010. It is recommended that the one excess car space be deleted resulting from recommended changes to the location of visitor car spaces, and adaptable/accessible car spaces, and the retention of one additional visitor car space. **(Condition 5 – see below)**

Visitor car spaces, Security/access control: Part C.4 of the WDCP requires that visitor parking must be suitably grouped, clearly marked and conveniently located. For residential areas, consideration must be given to the location of visitor car parking spaces in order that any security which may be required for residents' parking can be installed without impeding access to visitor spaces. The location of the proposed visitor car spaces are scattered over different areas of the basement car park on the original proposal. Subsequent amended proposals grouped together the visitor car spaces on Basement 1 - South, but provides no potential for separation or security between the private car spaces and the visitor spaces. Access to Basement 1 – South from the street, must be via Basement 1 – North, which accommodates 11 private residential car spaces. Basement 1 – South also accommodates private residential spaces. To improve the safety and security of the basement car parking area, it is recommended that the following changes be made:

Condition 5 – Car parking spaces allocation

The allocation of car parking spaces for the development must be amended to incorporate the following:

- a. *The development must provide a minimum of 55 car spaces, including 11 visitor car spaces, and 44 residential car spaces. This will reduce the total number of car spaces from 56 as shown on the approved*

plans to 55, as one residential car space is required to be deleted to as per point f) below.

- b. At least one car space must be allocated to each unit, and two car spaces being provided to Unit 2.13, being a 3 bedroom unit.*
- c. Car spaces No. 1 to No 11 be allocated as visitor car spaces (including 2 disabled visitor car spaces, being car space No. 1 and No 5) on Basement 1- North*
- d. Car spaces No 12 to 22 be allocated as residential car spaces*
- e. Adaptable residential car spaces be provided at car space No 22 and car space 23 on Basement 1 – South.*
- f. 1 adaptable residential car space be provided on the northern section of Basement 2 with continuous accessible path and convenient access to Lift 2 by deletion of one residential car space*
- g. Car space No. 30 be converted to an adaptable residential car space by reduction of the associated storage area. This will result in 4 adaptable residential car spaces being provided by the development.*
- h. Car spaces, disabled car spaces and adaptable car spaces must comply with AS2890.1, and AS1428/4299.*

Plans and details complying with this condition must be shown on Construction certificate plans and approved by the accredited certifier.

It is considered unnecessary to specify a gate be provided between Basement 1 – North and Basement 1 – South as part of the condition of consent, which should form part of a more detailed security measure and access control consideration during occupation of the development depending on the level of security devices and management available. The recommended changes are based on the consideration of the distribution of adaptable units, the availability of street parking at the site, the proposed dwelling mix, and the layout and access arrangement of the development.

Loading: A loading bay is required for multi-unit residential development comprising 12 units or more. This is to cater for a removalist van/maintenance vehicles (a small rigid vehicle) to park at the site. This is particularly important for the proposed development due to the site is located on a classified state road with no street parking. The Roads and Traffic Authority also concurs with this requirement. The proposed development provides an on-grade loading area with access off the same vehicular access from Penshurst Street to the basement car parking. Given the turntable requires mechanical operations, and with potential access control, it is recommended that a sign must be provided on-site with respect to its operation as per recommended condition below:

Condition 82 - Turntable

Detailed specifications demonstrating the required turntable will permit the loading and unloading by a Small Rigid Vehicle must be submitted to and approved by the certifying authority prior to its installation.

The turntable and loading area must be clearly sign posted on site as a designated loading area, with clear instruction on its operation, and number to contact security/building management personnel for its operation and maintenance prior to occupation of the development.

(Reason: Safe loading and unloading)

Accessibility and Mobility (C.6)

The proposed development does not meet the requirements of Part C.6.3 of the WDCP with respect to the provision of adaptable housing, which requires:

- 50% of all units to be adaptable for buildings 4 storeys in height
- 1 car space be allocated to each unit
- 5 adaptable car spaces be provided for 20- 24 adaptable units

The application is submitted with an access report prepared by Accessibility Solution (NSW)P/L. The report demonstrates that 14 out of the 44 units originally proposed will be adaptable. The proposal as amended on 25 Oct 2010 shows 15 of the proposed 43 units as being adaptable (35%). It is noted that the access report is prepared on the assumption that the proposed development is a 3 storey development, and not a 4 storey development, which results in the application of the incorrect control, and the provision of 33% as adaptable housing as required for 3 storey buildings. Having said that, it is noted that the proposed development is designed based on a clear structural grid, with a high number of units having similar or identical layout. In this regard, it is recommended that the applicant/developer investigates the conversion of the following units being adaptable as per the following recommended condition:

Condition 6 - Provision of adaptable units

Design of the layout of Unit 2.10, 2.11, 2.03, 2.04, 3.06, & 3.03 be amended for adaptable housing (minimum Class C of AS4299) by internal alterations only, including alterations to front entrances to these units from the common corridor and the common corridor area if necessary. These changes must be shown on the construction certificate plans.

Adaptability assessment carried by suitably qualified persons with respect to the amended layout plans, and post adaptation plan complying with AS4299 must be submitted to and approved by the certifying authority prior to the issue of the construction certificate.

(Reasons: Provision of adaptable housing)

The recommended condition above will allow the development to provide a total of 21 units as adaptable housing (49%) and recommended **Condition 5** with respect to car parking allocation will provide 4 adaptable residential car spaces, and 2 adaptable visitor car spaces. Subject to the recommended amendments, the objectives and requirements of Part C.6 of the WDCP are considered to be satisfied, given the shortfall of adaptable housing within the development will be numerically insignificant.

The submitted access report also refers to the visitability (permits access by visitors with disability) of the proposed development is at 33% and in excess of the requirements of SEPP 65.

Landscaping (C.9)

During assessment of the application, the assessment officer has discussed various amendments to the layout and design of this loading and turning area in order to mitigate its impacts to the quality and quantity of landscaping within the front setback

area of Building 1 and boundary planting adjacent to the property with No 266 Penshurst Street. The amended proposal received by Council on 25 Oct 2010 is considered to substantially resolve these issues of concern by the replacement of loading bay and turning area with a single turntable. Additional soft landscaping provided in the form of turf cells, are provided in front of the proposed turntable. It is also recommended that additional soft landscaping be provided within the private courtyards of ground floor units facing the street (**Condition 4**).

Safer by Design (C.11)

In accordance with Council's adopted Crime Prevention Protocol with Chatswood Police, the subject development application has been referred to the Crime Prevention Officer for assessment. Based on assessment of the proposal as originally submitted, the CPO provided the following recommendations:

1. The proposed main access arrangement between the two buildings creates a number of safety and security concerns. As a main entry to the complex, the combination of the width of the access way and the height of adjacent walls creates a perception of a 'closed in' environment. The supplied shadow diagrams suggest poor natural direct lighting into this area, particularly during winter months. Narrow and dark spaces work to create increased fear, or perception of risk for those using the area legitimately, as well as creating an attractive environment for criminals due to poor levels of natural surveillance. The narrowness of the main entry is worsened by the proposed water feature. This may create conflicted use/right of way in the narrow pedestrian path, which may lead to conflict between residents. There is limited surveillance along this passageway to the various entries to the back of the proposed buildings. The shared entry point between Building 1 and 2 for all units also adds anonymity to users and further reduces security.

Comments: The amended plans received by Council on 24 Sept 2010, and 25 Oct 2010 revised the access arrangement to the proposed buildings. Two additional entries directly from the street will be provided to Building 2. The entry to Building 1 has also been subsequently widened, secured off, and the path leading to this entry has also been amended to give a greater sense of openness and better surveillance from the street. This issue of concern raised against the original proposal is substantially addressed by the amended proposal.

2. Further to the above, all vegetation along the side of the common pathway must be maintained at a low height (600- 800mm) to eliminate concealment opportunities, as well as promote improved spread (reflection) of available light into the walkway.

Comment: To be addressed by **Condition 91**.

3. The side gate access (to the south of Building 2) is likely to be a weak security point with limited natural surveillance.

Comment: This side gate access is required for purposes of maintenance only. In this case, it is recommended that this side gate be locked and permits security access

only. The fencing associated with this gate shall be visually permeable and 2.1m in height. See **Condition 91**.

4. The open lobby/corridors are considered to offer poor levels of security, again with limited natural surveillance. Should these areas must remain "open," it is suggested that additional hardware (key operated deadlocks) be fitted to all entry doors of individual units to mitigate risk.

Comment: The amended proposal received by Council on 25 Oct 2010 provided access control/door and enclosure for all building entries from the communal open space.

5. The glass canopy over the main entry path is at a height that can be used as a natural ladder/platform for climbing into first floor balconies on either side of the canopy. (This may also be the case for some of the louvers and side fencing next to the building entries). This creates increased risk of unauthorised entry to those units.

Comment: The subject glass canopy is deleted on the amended proposal.

6. The proposed stairs from the basement level to ground provide opportunity for concealment and entrapment. Amendment to provide better lighting and security should be considered to address this risk.

Comment: The subject stairs are only required for fire egress. It is likely to be alarmed and only be used in emergency situations. However, it is noted that the fire stairs leading from the basement to ground level located immediately to the north of Building 1 and immediately to the south of Building 2 are not fully enclosed and secured off. It is recommended that this matter be addressed by **Condition 91**.

7. The proposed visitor basement car spaces provide no separation from other residential car spaces. No security measure is illustrated on the plans or potential for separation or security.

Comments: This matter is to be addressed by recommended **Condition 5**.

Specific Controls for Residential Development – Part D

The proposal has been assessed in respect to the relevant provisions of Part D.3 of Willoughby DCP, which contains the specific controls for multi-unit housing development as outlined in the development statistics and further discussed below.

Site Coverage (D3.4)

The proposed development has site coverage of 36.8% (1094.7m²) and exceeds the maximum site coverage prescribed for 3 storeys at 30%, and 4 storeys at 28%. The intent of the site coverage control contained in Part D3.4 of the WDCP is “to ensure multi-unit residential developments have a high standard of amenity by controlling the proportion of site which may be covered by buildings to achieve adequate open space and reasonable privacy.”

Part D3.4 of the WDCP includes performance criteria that allows for the variation of the site coverage requirement. The performance criteria of the control states that *“variation to the maximum site coverage requirements can be considered as long as the recreational open space and the natural landscape requirements, privacy, solar access and overshadowing considerations are complied with.”* The proposed variation is considered to satisfy the performance criteria as outlined below:

- The proposed development provides 36.9% landscaped areas and is above the required 35%. The submitted landscape proposal also includes new screen planting along all site boundaries to provide soft landscape buffers between developments. The proposed development also provides 57% of site area as recreational open space, and is above the required 54%.
- The siting of the proposed buildings is considered an appropriate response to the site's context, and provides adequate spatial separation between the heritage cottages to the south western corner of the site, as well as maintaining reasonable solar access to their rear yards.
- The proposed development will not unreasonably affect the privacy of adjoining properties. Where appropriate, the living areas, and balconies of the proposed units are orientated away from western and southern elevations of the proposed buildings to maintain a reasonable privacy between developments. In particular, all windows above the ground level, on the south western elevation of the Building 2 are either bedroom windows, or dormer windows.
- The proposed development is not considered to unreasonably affect solar access to adjoining properties.

Setback (D3.5)

Front setback: The proposed balconies to Building 1 and Building 2 encroach upon the required minimum front setback of 7.5m. The balconies of Building 1 are setback at 5.25m from the street boundary, and the proposed balconies for Unit 2.13 & 2.17 of Building 2 are setback from the street boundary by 6.125 – 8m.

During assessment of the application, the assessment officer and the applicant had extensive discussion about the encroachment on the required front setback by the proposed Building 1. The issues of concern relate to the bulk and scale of Building 1 being pushed forward into the front setback area, and together its uppermost level not being setback progressively from its lower level. The visual bulk of Building 1 as originally proposed is considered to overwhelm the existing streetscape. As previously discussed under the SEPP 1 assessment section of this report, the amended proposal received by Council on 25 Oct 2010 substantially resolved this issue of concern. Whilst parts of the proposed balconies of Building 1 as amended still encroach upon the required front setback, the visual mass of these balconies and the overall bulk of the Building 1 have been broken up by the increased setback of the building at the uppermost level, the parapet level, and from the building corners. The change of building materials of the balconies to Unit 2.05 & 3.07 from masonry to lightweight materials also assists the reduction of visual mass of the building.

The encroachment of the proposed balconies of Building 2 near the southern end of the site is not considered to adversely affect the existing streetscape. Given the curved shaped balconies at the end of Building 2 add dynamicity/ a sense of movement to the composition of the building façade, and is considered an appropriate approach to improve visual interests of the building, and to break up its visual mass as viewed from Penshurst Street.

Side Setback: The side setbacks of the 3rd storey of proposed Building 1 and Building 2 does not comply with the requirement of Part D.3.5 of the WDCP as noted in the Development statistics. A 6.6m setback is required for the 3rd storey of the proposed buildings from adjoining properties. The 3rd storey of proposed Building 2 is setback at a minimum of 6.395m from the boundary with No 240 Penshurst Street and up to 7.32m. The variation is considered numerically minor and has negligible impacts to the amenity of No 240 Penshurst. The 3rd storey of proposed Building 1 is setback at a minimum of 5.4m from the boundary with No 266 Penshurst Street and up to 9.26m. The variation is limited to that part of Building 1 fronting Penshurst Street, namely the northern elevation of Unit 3.07 on Level 3. This wall is 7.375m in length, and has no north facing window. The proposed encroachment is not considered to unreasonably affect the amenity of No 266 Penshurst Street, which is separated from the northern wall of Unit 3.07 by over 10m at this location.

Privacy (D3.7)

The proposed development generally meets the separation distance required by SEPP 65, except for minor shortfall from No 240 Penshurst Street (which has limited setback from the common boundary). In addition, appropriate obscured glazing and highlight windows are provided on the southern elevation of the Building 2, and is considered to suitably avoid overlooking or privacy conflicts with window and balconies at this adjoining development.

The living areas and associated balconies of the proposed Buildings are mostly orientated to the street frontage and the northern elevation of Building 1 where a minimum 12m separation is provided between balconies of the development and the adjoining development at No 266 Penshurst Street. No balcony is provided on the western elevations of the proposed buildings. Only the balcony of Unit 2.01 has a south facing balcony towards the rear yards of heritage cottages on Clanwilliam Street, but is separated from the rear boundary of these properties by over 25m. The proposal demonstrates suitable considerations in maintaining a reasonable level of privacy between the site and adjoining properties.

Please also refer to Notification Issues section of this report in response to privacy concerns by public submissions.

Solar Access & Overshadowing (D3.9)

Rear yards of Clanwilliam St properties: The submitted shadow diagrams show that the proposed development will have limited overshadowing impacts to the rear yards of adjoining properties at No 1, 3, 5, & 7 Clanwilliam Street. The shadows of the proposed building will only affect these properties during early morning at Winter Solstice, and will not affect their afternoon sun. More than three (3) hours of solar

access is maintained to the rear yards and living areas of these properties between 9am – 3pm, Winter Solstice.

No 240 Penshurst Street. The overshadowing impacts of the proposed development will affect the northern elevation of the residential flat building to the south of the site at No 240 Penshurst Street from approximately 10:30am onward at Winter Solstice due to the orientation of the building. The 3 storeys plus attic development at No 240 Penshurst Street contains six (6) dual aspect/corner units. Unit 1, 3, and 5 have north facing terrace/balconies facing the proposed development.

Based on the submitted shadow diagrams, the overshadowing impacts of the proposed development will not affect the north facing balconies and windows of Unit 3 and 5 (first and second floor) of No 240 Penshurst Street between 9am and 12noon, and these units would receive at least 3 hours of solar access between 9am and 3pm at Winter Solstice due to the altitude of the sun.

The overshadowing impacts of the proposed development between 9:00am and 12 noon at Winter Solstice is limited to the north facing terrace of ground floor Unit 1/ 240 Penshurst Street. With respect to the north facing windows and terrace of ground floor Unit 1/ 240 Penshurst, the proposed development will create some additional shadows on the north facing windows from approximately 11:30am onwards. The overshadowing impact from the proposed development to Unit 1/240 Penshurst Street is primarily determined by the orientation of the property being directly south of the development site. It is noted that existing boundary fence, retaining walls and planter box along the northern boundary of No 240 Penshurst Street currently overshadows the terrace area of the ground floor unit. The additional shadows cast by the proposed development are considered minor and unlikely to affect the reasonable enjoyment of the terrace area/ living room. It is noted that the submitted shadow diagram is drawn with respect to the amended plan received by Council on 24 Sept 2010. The amended proposal received by Council on 25 Oct 2010 includes an increased setback of the uppermost level of Building 2 from the southern boundary (adjoining No 240 Penshurst Street) by 2.3 to 2.78m, which will further reduce the overshadowing impacts to 240 Penshurst Street.

Neighbour Notification Issues:

The application was notified from 29 July 2010 to 31 July 2010. Seven (7) Submissions were received in this period. The issues raised in the submissions are discussed below:

Bulk and scale, & Height. The correspondents are concerned about the bulk and scale of the proposed development, particularly with respect to its exceedance of the FSR and Height requirement contained in the WLEP. The correspondents are concerned that these non-compliances with the development standards will result in a reduction of separation from the correspondents' properties on Clanwilliam Street, and their amenity. The correspondents also claimed that the submitted SEPP 1 objections are not well-founded, and approval of the proposed development will set an undesirable precedent for future developments.

Comment: During assessment of the application, the issues of concern raised by the assessment officer primarily relate to the bulk and scale of the proposed

development as viewed from Penshurst Street. These concerns are considered to have been resolved by subsequent amended proposals received by Council on 24 Sept 2010, and 25 Oct 2010.

Based on assessment of the submitted SEPP 1 objections and the amended proposal, the assessment officer is satisfied that the objectives of the FSR and height standards have been met despite the numerical non-compliances as detailed in the assessment section of this report. The recommended support for the development's variations from the development standards also considers the large size and dimensions of the site, the design integration of the proposed buildings, and the development context, which together presents special circumstances for these variations. The overall height and scale of the development as amended are considered compatible with its main development context with no unreasonable overshadowing or privacy impacts to adjoining properties. It is also noted that the proposed Building 2 provides setbacks with respect to the heritage cottages in excess of the requirements contained in Part D3.5 of the WDCP.

Heritage cottages: the correspondents are concerned that the proposed development will adversely affect the significance of the heritage cottages. The correspondents claim that the proposal does not provide for any reasonable transition between high density 3 and 4 storey apartments and single level heritage cottages.

Comment: The heritage cottages at Clanwilliam Street will always be of a different density and scale, which are not representative of the surrounding residential flat development context or the envisaged density of the zoning of the site. The zoning of the site contemplates a multi-unit development outcome. The proposed development is not considered to adversely affect the heritage significance of adjoining heritage cottages on Clanwilliam Street. The siting of the proposed development, including a large communal open space in its south western corner is considered an appropriate response to ensure the development will be a distant backdrop to the heritage item when viewed from Clanwilliam Street. It is noted that the heritage items have no identifiable curtilage that support their appreciation. Appropriate tree plantings at the subject site along the common boundary with the heritage items are necessary to positively contribute to their backdrops. In this regard, suitable screen planting along the boundaries of the site have been proposed.

Local character. The correspondents are concerned that the proposed development will change the local development character.

Comment: The development site is located within a residential flat precinct adjoining other residential flat development. Whilst the proposed development adopts more contemporary architectural language than its adjoining neighbours, it is not considered to be incompatible to the character of the area, which has a wide mix of building developed from various times, and present no uniform architectural character.

Traffic and Parking: The correspondents are concerned that the proposed development will have unacceptable traffic impacts on existing traffic on Penshurst Street and street parking in the locality.

Comment: Traffic studies have been undertaken for the proposed development, and assessed by both Council and RTA's traffic sections. The proposed development is not considered to create unacceptable traffic impacts to Penshurst Street or the locality in general. The proposed development is estimated to generate an additional 13 vehicle trips/hour during peak hours onto Penshurst Street.

Construction impacts: The correspondents on Forsyth Street are concerned that the proposed excavation will cause vibration and damage to their properties in Forsyth Street.

Comment: The south western corner of the development site is over 50m from the correspondent's property, and separated by properties on Clanwillaim Street and Clanwilliam Street itself. These properties are not expected to be affected by the proposed excavation under reasonable circumstances.

Tree planting (266 Penshurst Street): The correspondent requests that the proposed planting near the northern boundary of the site adjoining the courtyard of No 4/266 Penshurst Street, including three spotted Gum trees, and two Christmas trees be deleted from the proposed development. The correspondent is concerned about any falling branches and leaves into the correspondent's courtyard area and causing blocked drains and the like.

Comment: It is recommended that the subject trees be relocated to be planted at least 3m away from the property boundary to minimise unnecessary overhangs over the courtyard of the correspondent's property. (**Condition 4**)

Privacy: The correspondents are concerned about the loss of privacy due to overlooking from the development.

Comments: The proposed development is considered to have taken appropriate consideration of the privacy of adjoining properties. With the exception of the ground floor, all windows on the western elevation of Building 2 are either bedrooms and bathrooms or dormer windows. The proposed balconies on the southern elevation of Building 1 are over 25m from the rear yards of the correspondents' properties on Clanwilliam Street. All glass balustrades to the proposed development will be provided with obscured glazing as per **Condition 4**.

CONCLUSION

The site is a large residual development site within an established residential flat development area. The development context of the site transits from lower scale developments, including heritage cottages, and smaller medium density developments to its south, to larger and older residential flat buildings to the north. The scale and density of the development is found to be appropriate to the environmental capacity of the site, its area and dimensions as well as the 3 and 4 storey development context of the medium density residential area. Due to the size and dimensions of the site, additional floor area is considered to be accommodated by a greater degree of sharing of common facilities such as vehicular access and communal open space, and also by internalising the impacts of higher density with a tighter but better designed internal relationship between the proposed buildings. The

proposal as amended is not considered to create unreasonable external impacts to adjoining properties in terms of privacy, solar access and visual bulk. Noting the difference in density and height between the proposed development and the adjoining heritage cottage does not raise unacceptable heritage impacts.

During the assessment process, extensive discussions were held between the assessment officer, Council's urban design consultant, the applicant, and their architect in order to derive an appropriate response to mitigate the impacts of the proposed development that is of greater scale and density than its adjoining neighbours, and in particular, the integration of the proposed development with the Penshurst Street streetscape. Subsequent amendments includes increases of setbacks of the development from the street, northern and southern boundaries of the site resulting in a substantial reduction in floor space, as well as improved architectural presentation of the development on Penshurst Street. The amended proposal received by Council on 25 Oct 2010 is considered to substantially resolve the issues of concern raised by Council's officer, urban design consultant and the Crime Prevention Officer, and is considered worthy of support in its current form subject to the recommended conditions of consent, including deferred commencement conditions in respect to stormwater matters.

OFFICER'S RECOMMENDATION

- **That the submitted SEPP 1 objections against Clause 23 (FSR) and Clause 24 (Height) of the WLEP 1995 be supported pursuant to reasons stated in assessment report; and**
- **That the application be approved and delegated authority be granted to the General Manager to issue the attached Deferred Commencement Consent Notice subject to attached conditions in Schedule 1 and Schedule 2.**

Attachment 1 – RECOMMENDED CONDITIONS

SCHEDULE 1 DEFERRED COMMENCEMENT CONDITIONS OF CONSENT

In accordance with Section 80(3) of the Act this consent will not operate until the applicant has provided information to the satisfaction of the Council that the following conditions can be complied with. Upon receipt of written information from the applicant in relation to the conditions in this schedule the Council will advise in writing whether the information is satisfactory and, if so, will nominate the effective date for the commencement of this consent.

In accordance with Clause 67(3) of the Regulation, a twelve (12) month period is given from the date of the 'deferred commencement' notice to lodge plans and evidence that satisfactorily address the required amendments/detail. If not, then the 'deferred commencement' will lapse and a new development application will be required.

(Reason: Ensure compliance)

A. Stormwater plans

The stormwater plans prepared by SPP Consulting, Drawing Nos. SW-000B, SW-100-B to SW107-B and SW-300-B to SW302-B, dated 15/7/10, shall be amended to address the following issues, and generally consistent with draft stormwater plan numbered SY100039 H102 issue A prepared by SPP Consulting dated 16.09.10:

- The capacity of the Council's underground system at the proposed connection of the outlet must be hydraulically evaluated using the Hydraulic Grade Line (HGL) method to ensure that no backwater effect will occur from the Council underground system to the proposed OSD system. Full supporting calculations must be provided. Alternatively, the OSD tank shall be redesigned so that the inverted level of the orifice is positioned higher than the top of kerb at the existing kerb-inlet pit. All drainage design must comply with Part C5 of WDCP and AS3500.3.
- Stormwater runoff from all roof areas and surface runoff shall be directed to the proposed OSD system.
- A 900x900 surface grate shall be provided directly above the outlet control of the OSD tank. This is allow for direct access for maintenance;
- A drainage pit (min. 600mm x 600mm) shall be provided within and adjacent to the property boundary prior to discharging to the Council's street drainage system.
- All below ground tanks and pits must have a minimum grade of 1% to the invert of the discharge control outlet, which must be drained completely dry after the cessation of any storm. No sediment traps at the outlet point is permitted. Any sump below the invert of the orifice outlet shall be filled with a mortar mix to the invert of the orifice after the installation of the orifice plate.

- 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.

Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.

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.

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 in 100 year ARI 2-hours duration storm event.

(Reason: Ensure compliance/ Stormwater disposal)

SCHEDULE 2

CONDITIONS OF CONSENT

GENERAL CONDITIONS

1. Hours of Work

All construction/demolition work relating to this Development Consent within the City 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 under Section 96 of the Environmental Planning and Assessment Act for a variation to these approved hours must be lodged with Council at least 3 working days in advance of the proposed work. The application must include a statement regarding the reasons for the variation sought and must be accompanied by the required fee.

Note: This S96 application may require re-notification in some circumstances. (Reason: Ensure compliance and amenity)

2. Approved Plan/Details

The development must be in accordance with Architectural plans numbered , DA0201, DA0202 Issue D, dated 24.09.20, DA 0102, DA 0203, DA 0204, DA 0205, DA 0206, DA 0207, DA 0501, DA 0502, DA 0503, DA 0601, and DA 0602, Issue E, dated 21.10.2010, prepared by by Collins Taylor Architecture, Landscape plan numbered LPDA10-405 revision C, dated Oct 2010, prepared by Conzept Landscape Architects, Stormwater plans numbered sw-000, sw-100, sw-101, sw-102, sw-103, sw-104, sw-105, sw-106, sw-107, sw-300, sw-301, sw-302, Issue B, dated 15.07.10, prepared by SPP Partners Hydraulic Fire Environmental Consultants, *as amended by Deferred Commencement Conditions in Schedule 1*, the application form and any other supporting documentation submitted as part of the application, except for:

- a) any modifications which are "Exempt Development" in SEPP (Exempt and Complying Development Codes) 2008.
 - b) any modifications which are 'Exempt Development' in Willoughby Development Control Plan Part B.2, or as may be necessary for the purpose of compliance with the Building Code of Australia and any Australian Standards incorporated in the Code:
 - c) otherwise provided by the conditions of this consent.
- (Reason: Information and ensure compliance)

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

3. Detailed Drawings

Detailed construction drawings, specifications, and other supporting documentation required for a Construction Certificate are to be in accordance with the terms of this Consent and comply with the requirements of the Building Code of Australia.
(Reason: Ensure compliance)

4. Amendments – Various

Amendments complying with the following requirements must be shown on Construction Certificate plans:

- a) 4 bike lockers and 4 bike racks must be provided within basement car parking areas. The design and dimensions of bike lockers and bike rack must comply Willoughby Development Control Plan Part C. 4 and AS2890.3.
- b) 20m² of additional drying areas is to be provided within communal open space area.
- c) Provision of recycling receptacle in each dwelling.
- d) Direct entry be provided from Penshurst Street to Unit 1.05.
- e) All glass balustrades are to be provided with obscured glazing.
- f) 3 x spotted gum trees (*Corymbia Maculata*) and 2 x NSW Christmas trees (*Ceratopetalum gummiferum*) proposed along the northern boundary of the site adjoining the courtyard of Unit 4/ 266 Penshurst Street be relocated to at least 3m away from the northern boundary of the site.
- g) The planters within the private open space of Unit 1.09 and Unit 1.10 parallel to the street must have a minimum width of 3m.
- h) The planter within the private open space of Unit 1.06 parallel to the street must have a minimum width of 1.5m.
- i) A waste equipment store room capable of accommodating a modified RC706 Tow Cart required for movement of waste bin from the basement area to the ground level must be provided on Basement Level 1.

(Reasons: Streetscape, visual amenity, maintenance, services and facility)

5. Amendment – Car spaces allocation

The allocation of car parking spaces for the development must be amended to incorporate the following:

- i. The development must provide a minimum of 55 car spaces, including 11 visitor car spaces, and 44 residential car spaces. This will reduce the total number of car spaces from 56 as shown on the approved

plans to 55, as one residential car space is required to be deleted to as per point f) below.

- j. At least one car space must be allocated to each unit, and two car spaces being provided to Unit 2.13, being a 3 bedroom unit.
- k. Car spaces No. 1 to No 11 be allocated as visitor car spaces (including 2 disabled visitor car spaces, being car space No. 1 and No 5) on Basement 1- North
- l. Car spaces No 12 to 22 be allocated as residential car spaces
- m. Adaptable residential car spaces be provided at car space No 22 and car space 23 on Basement 1 – South.
- n. 1 adaptable residential car space be provided on the northern section of Basement 2 with continuous accessible path and convenient access to Lift 2 by deletion of one residential car space
- o. Car space No. 30 be converted to an adaptable residential car space by reduction of the associated storage area. This will result in 4 adaptable residential car spaces being provided by the development.
- p. Car spaces, disabled car spaces and adaptable car spaces must comply with AS2890.1, and AS1428/4299.

Plans and details complying with this condition must be shown on Construction certificate plans and approved by the accredited certifier.

6. Additional adaptable units

Design of the layout of Unit 2.10, 2.11, 2.03, 2.04, 3.06, & 3.03 be amended for adaptable housing (minimum Class C of AS4299) by internal alterations only, including alterations to front entrances to these units from the common corridor and the common corridor area if necessary. These changes must be shown on the construction certificate plans.

Adaptability assessment carried by suitably qualified persons with respect to the amended layout plans, and post adaptation plan complying with AS4299 must be submitted to and approved by the certifying authority prior to the issue of the construction certificate.

(Reasons: Provision of adaptable housing)

7. Adaptable units

Adaptable residential units for disabled persons are to be provided as identified by the submitted Adaptable Housing Report prepared by Mark Relf (Accessibility Solutions (NSW P/L) dated 15 July 2010 and additional adaptable units as per **Condition 6** of this development consent. Each adaptable unit is to be nominated on the Construction Certificate drawings and is to be provided with disabled car spaces where required under the Willoughby Development Control Plan Part C.6 – Access, Mobility and Adaptability.

(Reason: Provision of adaptable housing & Amenity)

8. External Finishes - Compatibility

The external building material shall be consistent with the submitted schedule of colour and finishes received by Council on 9 Nov 2010, numbered DA2000 Issue B prepared by Collins Taylor Architecture, dated 08.11.2010.
(Reason: Visual amenity)

9. External roofing and cladding

The roofing and cladding of the proposed building are to be of minimal reflectance (maximum of 20%) so as to avoid nuisance in the form of glare or reflections to the occupants of nearby buildings, pedestrians and/or motorists. Detailed specifications complying with this condition of consent must be submitted to the certifying authority and endorsed with the Construction Certificate.

(Reason: Avoid nuisance and ensure compliance)

10. Driveway and car parking design (Roads and Traffic Authority)

As conditions of the Roads and Traffic Authority granting concurrence to the development, the following requirements must be met:

- a) The design and construction of the gutter crossing off Penshurst Street shall be in accordance with (submitted drawing DA0203, Issue B dated 22/07/2010), and the RTA's requirements. Details of these requirements should be obtained from RTA's Project Services Manager, Traffic Project Section, Parramatta, 8849 2496.

Detailed design plans of the proposed gutter crossing are to be submitted to the RTA for approval prior to the commencement of any road works.

It should be noted that a plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by the RTA.

- b) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) must be in accordance with AS2890.1 – 2004 and AS2890.2-2002 for heavy vehicle usage;
- c) All vehicles must be able to enter and leave the site in a forward direction;
- d) All vehicles must be wholly contained within the property boundaries of the site before requiring to stop;
- e) Any redundant driveway(s) along the site's frontage shall be removed and replaced with kerb and gutter to match existing.

- f) The required site lines to pedestrians or other vehicles in or around the carpark or entrances must not be compromised by landscaping, signage, fencing or display materials.
- g) The swept path of the longest vehicle (including garbage truck) entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS.

Plans and details complying with this condition must be shown on the Construction Certification Plans.

(Reasons: RTA requirements)

11. Additional Details and Information

Any requirements outlined by conditions of this consent requiring changes and/or information to be noted on plans are to be incorporated within the Construction Certificate plans and documentation.

(Reason: Ensure Compliance)

12. Section 94 Contributions

A cash contribution is to be paid in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979, in relation to the following items specified below:

| | | |
|---|---|---------------------|
| A | Childcare | \$32974.62 |
| | <u>Calculation</u> | |
| | \$785.11 per additional dwelling (42) | |
| B | Open Space and Recreational Facilities | \$302,738.93 |
| | <u>Calculation</u> | |
| | \$6,475.48 per 1 bedroom dwelling (33) | |
| | \$9,827.86 per 2 bedroom dwelling (9) | |
| | \$12,538.24 per 3 bedroom dwelling (1) | |
| | <u>Credit</u> | |
| | \$11,940.89 per existing lot (1) | |
| C | Roads and Traffic Transport/Management | \$90,418.68 |
| | <u>Calculation</u> | |
| | \$2,102.76 per residential unit (43) | |
| Total | | \$426,132.23 |
| <i>Office Use – Calculation Checked</i> | | |

This contribution is based on needs generated by the development as identified in the relevant adopted Section 94 Contributions Plan. The contribution rate and calculation is current until 30 June 2011, if payment is made after this date the rate/contribution will be increased in accordance with the CPI adjusted rates current at the time of payment.

Please note that payment will only be accepted by way of a bank cheque or cash.

Copies of the Contributions Plans and revised rates are available for inspection at the Councils Administration Building, 31 Victor Street, Chatswood or online at www.willoughby.nsw.gov.au
(Reason: Statutory requirement)

13. Services - Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to occupation. Application must be made through an authorised Water Servicing Coordinator, for details see Customer Service, Urban Development at www.sydneywater.com.au or telephone 13 20 92.

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

The "Notice of Requirements" relating to the approved development in accordance with this consent is to be submitted to Council.
(Reason: Ensure Statutory Compliance)

14. Services - Energy Australia

The applicant should consult with Energy Australia to determine the need and location of any electrical enclosure for the development. Should such an electrical enclosure be required, the location and dimensions of the structure are to be detailed on all the plans issued with the Construction Certificate. In the event of Energy Australia requiring such a structure eg. a substation, the applicant is required to dedicate the land for the substation as public roadway. The Plan of Dedication shall be lodged to Council prior to issue of the Construction Certificate and registered at the Department of Lands prior to issue of the Occupation Certificate.
(Reason: Compliance)

15. Damage Deposit

The applicant shall lodge a Damage Deposit of \$30,000 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset 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. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.
(Reason: Protection of public asset)

16. Detailed Stormwater Management Plan

Submit for approval by the Principal Certifying Authority, detailed stormwater management plans, prepared by a suitably qualified and experienced civil engineer in relation to the stormwater management and disposal system for the development. The construction drawings and specifications shall be prepared in accordance with the concept stormwater plans approved by Council, Part C.5 of Council's Development Control Plan and Technical Standards and AS3500.3 – *Plumbing and Drainage Code* and the BCA.
(Reason: Ensure Compliance)

17. 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 Penshurst Street via a 450 mm 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.
(Reason: Prevent nuisance flooding)

18. Analysis of Outlet Condition

The capacity of the existing Council stormwater drainage system at the proposed connection of the outlet shall be hydraulically evaluated using the Hydraulic Grade Line method to ensure that no stormwater will be able to surcharge from Council's system to the proposed drainage system. Full engineering details of the hydraulic evaluations prepared and signed by a practising Civil Engineer shall be submitted to Council for consideration.
(Reason: Prevent property damage)

19. Basement Pumpout Drainage System

The applicant shall submit, for approval by the Principal Certifying Authority, 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:

- 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.
- Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.
- 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.

- 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 in 100 year ARI 2-hours duration storm event.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part C.5 of Council's Development Control Plan, AS3500.3 – *Plumbing and Drainage Code* and the BCA.

(Reason: Prevent nuisance flooding)

20. Construction Management Plan (CMP)

Submit, for approval by the Principal Certifying Authority, 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)

21. Traffic Management Plan

A detailed 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 RTA accredited consultant.
- b) 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.
- c) 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.
- d) Temporary road closures shall be confined to weekends and off-peak hour times and are subject to the approval of Council. Prior to implementation of any road closure during construction, Council shall be advised of these changes and a Traffic Control Plan 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)

22. Submit Erosion and Sediment Control Plan

Details of the control devices shall be submitted to the accredited certifier.

Erosion and sediment control devices shall be provided 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, trees 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 Environmental Protection Authority guidelines. The control devices are to be maintained in a serviceable condition AT ALL TIMES.

(Reason: Environmental protection)

23. 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 the above works. Copies of the permission shall be sent to Council. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

24. Vehicle Access – Engineer's Certification

The Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. 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 will not result in the scraping of the underside of cars.
- b) That a maximum gradient of 5% is provided for the first 6 metres from the property boundary to the basement.
- c) That the proposed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- d) That the headroom clearance of minimum 2.2 metres between the basement floor and any overhead obstruction is provided which complies with Section 5.3.1 of AS 2890.1 and Section 2.4 of AS2890.6.
- e) That the headroom clearance of minimum 2.5 metres is provided to all parking spaces for people with disabilities which complies with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

25. Design of Civil 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:

- Construction of full width footpath (max. 2.5% crossfall) including reconstruction of kerb access ramp for the full frontage of the development in Penshurst Street. Detailed long section and cross section in 5 metres interval shall be provided.
- Construction of kerb and gutter with associated road restoration of a minimum of 1 metre wide if the existing pavement is damaged as a result of kerb and gutter and/or construction work.
- Construction of new kerb-inlet pit to Roads and Traffic Authority (RTA)'s specifications. Approval shall be obtained from the Sydney Asset Management of the RTA, 8849-2114 and submitted to Council.
- Construction of 5.5 metres wide vehicular crossing to RTA's specification. Approval shall be obtained from the RTA's project Services Manager, Traffic Projects Section, Parramatta, 8849-2496 and submitted to Council. The design levels at the property boundary shall be 250mm above and parallel to the gutter invert.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of two (2) 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)

26. Redundant Crossings

All redundant crossings are to be removed and replaced with kerb and gutter to match existing. The driveway is to be designed and constructed to AS2890.1-2004 and RTA requirements. Details of these requirements are to be obtained from RTA's Project Services Manager, Traffic Projects Section, Parramatta – 8849 2496.

A certified copy of the design plans shall be submitted to the RTA for consideration and approval prior to the release of a construction certificate.

(Reason: RTA requirements)

27. 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 Building Code of Australia
- b) AS1668.1-1998 – The use of ventilation and air conditioning in Buildings

- c) AS1668.2-1991 – The use of ventilation and air conditioning in Buildings
- d) The Public Health Act-1991
- e) The Public Health (Microbial Control) Regulation 2000
- f) AS3666.1 – 2002 – Air Handling and Water Systems in Buildings
- g) AS3666.2 – 2002 – Air Handling and Water Systems in Buildings
- h) AS3666.3 – 2000 – Air Handling and Water Systems in Buildings

Details of all mechanical ventilation and exhaust systems, and certification provided by an appropriately qualified person verifying compliance with these requirements, shall accompany the application for the Construction Certificate. (Reason: Health protection)

28. Arboricultural Method Statement

Submit to the accredited certifier an Arboricultural Method Statement. The Statement shall address tree protection and management for the development, and must comply with the requirements detailed in WCC Landscape Specification 04/2007, Development Site Tree management – Arboricultural Method Statement. (Reason: Tree protection)

29. Waste & Recycling Room

The waste and recycling container room shall be constructed to comply with all the relevant provisions of Willoughby Development Control Plan and in particular :-

- a) The floor being graded and drained to an approved drainage outlet connected to the sewer and having a smooth, even surface, coved at all intersections with walls.
- b) The walls being cement rendered to a smooth, even surface and coved at all intersections.
- c) Cold water being provided in the room with the outlet located in a position so that it cannot be damaged and a hose fitted with a nozzle being connected to the outlet.
- d) An overhead type door being provided to the room having a clear opening of not less than 1.8m.
- e) A galvanised steel bump rail at least 50 mm clear of the wall being provided at the height of the most prominent part of the garbage containers.
- f) Mobile containers suitable for connection to the garbage collection vehicle being provided in the room. In addition suitable recycling containers must also be provided in the room.

Plans and details complying with this condition must be submitted to the certifying authority for approval and endorsed with the Construction Certificate. (Reason: Health and amenity)

30. Noise from Transport Corridor

To minimise the impact of noise from the adjoining transport corridor on the amenity of the occupants, a further detailed acoustic report as recommended in the preliminary report by PKA Acoustic Consulting dated July 2010, project 210 012, shall be submitted to the Principal Certifying Authority. The building shall be constructed in accordance with the recommendations and specifications of this report.

Details of the proposed acoustic treatment shall accompany the application for the Construction Certificate.

(Reason: Amenity)

31. Contaminated Land – Excavation Management Plan

An Excavation Management Plan shall be prepared in accordance with the requirements of the Preliminary Environmental Site Assessment (Ref: E23739rpt) prepared by EIS, dated February 2010, and submitted to the Principal Certifying Authority (*and the Council if the Council is not the Principal Certifying Authority for review and concurrence*) prior to the issue of the Construction Certificate.

(Reason: Environmental Health)

PRIOR TO THE COMMENCEMENT OF ANY WORKS

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, including demolition.

32. Construction Certificate Required

This consent IS NOT an approval to carry out any building works (with the exception of demolition work). A Construction Certificate is required PRIOR TO ANY BUILDING 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)

33. Notify Council of Intention to Commence Works

In accordance with the provisions of Clause 81A(2) of the Environmental Planning and Assessment Act 1979 the person having the benefit of the development consent shall appoint a Principal Certifying Authority and give at least 2 days' notice to Council, in writing, of the persons intention to commence the erection of the building.

(Reason: Information and ensure compliance)

34. Waste Management Plan

A Construction and Demolition Waste Management Plan which provides details of specific strategies to salvage and recycle a minimum of 85% of used and unused demolition and construction materials shall be submitted to Council.

(Reason: Environment Protection/Waste Reduction)

35. Construction Information sign

A clearly visible all weather sign is required to be erected in a prominent position on the site detailing:

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator's and / or the demolisher's and / or the builder's name;
- (c) contact phone number/after hours emergency number;
- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Principal Certifying Authority (if other than Council)

ANY SUCH SIGN IS TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.

Council may allow exceptions where normal use of the building/s concerned will continue with ongoing occupation, or the works approved are contained wholly within the building.

(Reason: Ensure compliance)

36. Licensee Details

The name, address and contractor licence number of the licensee who has contracted to carry out the work or the name and permit number of the owner-builder who intends to carry out the work shall be furnished in writing to Council.

NB: Should changes be made for the carrying out of the work Council must be immediately informed.

(Reason: Information)

37. Building Site Fencing

Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m).

Temporary fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

Fences are to be structurally adequate and be constructed in a good and

workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible.

The public safety provisions and temporary fences must be in place **PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION, EXCAVATION OR BUILDING WORKS** and be maintained throughout construction.

(Reason: Safety)

38. Suitable Screens

Suitable screens and/or barricades shall be erected during demolition and building work and where required by the principal certifying authority to reduce the emission of noise, dust, water effluent or other matter from the site.

(Reason: Maintain amenity to adjoining properties)

39. 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)

40. Access to site

During Demolition, Excavation and Construction, access to the site is to be available in all weather conditions, and stabilised to prevent vehicles tracking soil materials onto public roads.

(Reason: Environmental protection)

41. 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 Principal Certifying Authority.

(Reason: Protection of Council's infrastructure)

42. Dilapidation Report of adjoining properties

A dilapidation report is to be prepared by a practising Structural Engineer, at no cost to Council or adjoining property owners, detailing the structural

adequacy of adjoining properties, including Council's property, and any other public infrastructure, and their ability to withstand the proposed excavation. This report must include any measures required to be incorporated to ensure that no damage will occur during the course of works. The report shall be submitted to the PCA and relevant adjoining property owners including Council.

(Reason: Protection of adjoining properties)

43. Ventilation Plans and Details

Plans and specifications of mechanical ventilation, air conditioning systems and any associated pollution control equipment are to be submitted and approved by the PCA.

(Reason: Ensure Compliance)

44. 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 & Safety/Ensure Compliance)

45. Neighbour Notification of Asbestos Removal

The applicant/builder is to notify the adjoining residents five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence, Work Cover NSW phone number 131 050, Councils phone number 9777 1000.

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)

46. Tree Protection

Retain and protect the following trees and vegetation throughout the demolition and construction period:

- All trees not indicated for removal on the approved landscaped plan.

The protective measures must comply with the following specifications:

- i. WCC Landscape Specification 01/2007: Tree Protection Area;
- ii. WCC Landscape Specification 02/2007: Tree Protective Fencing.

(Reason: Tree Management)

47. Provide Erosion and Sediment Control

Erosion and sediment control devices shall be provided 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, trees 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)

48. 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)

49. 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 the RTA. 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.
- 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.

(Reason: Legal requirements)

50. Detailed Drawings Geotechnical Report

The site and adjoining sites (including Penshurst Street, the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report including detailed drawings and geotechnical reports relating to the excavation of the site, and supporting structures must be submitted to the Roads and Traffic Authority for assessment together with the cost of any assessment by RTA.

The report must address the following key issues:

- The impact of excavation/rock anchors on the stability of Penshurst Street and detailing how the carriageway would be monitored for settlement;
- The impact of the excavation on the structural stability of Penshurst Street; and
- Any other issues required by the Roads and Traffic Authority (Contact: Geotechnical Engineer, Stanley Yuen on 8837 0246 or Graham Yip on 8837 0245 for details).

The report must also indicate how the work is to be undertaken with safety, and identifying the stages at which the engineers' personal supervision is to occur during the works.

(Reason: RTA requirements and Protection of adjoining properties)

51. RTA Stormwater drainage system

Detailed design plans and hydraulic calculations of any changes to the RTA's Stormwater drainage system are to be submitted to the RTA for approval prior to commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Traffic Authority
PO BOX 973
Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regards to the Civil Works

requirement please contact RTA's Project Engineer, External Works on p8849 2114 /f8849 2766.
(Reasons: RTA requirements)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

52. Occupation Certificate

The building/structure or part thereof **SHALL NOT BE OCCUPIED OR USED UNTIL AN INTERIM OCCUPATION / FINAL OCCUPATION CERTIFICATE HAS BEEN ISSUED** in respect of the building or part.
(Reason: Safety)

53. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to occupation. Application must be made through an authorised Water Servicing Coordinator, for details see Customer Service, Urban Development at www.sydneywater.com.au or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Principal Certifying Authority.
(Reason: Ensure Statutory Compliance)

54. Contamination/Remediation - Documentary evidence

Documentary evidence prepared by a suitably qualified environmental consultant shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority for review and concurrence) prior to completion of the development, certifying that sampling has been undertaken to demonstrate that any contaminated material has been removed from the site and that the land is suitable for residential use.
(Reason: Environmental Health)
(Reason: Environmental protection & Public Health)

55. On-site Water Management System

The stormwater runoff from the site shall be collected and disposed of via an approved on-site detention (OSD) system in accordance with Sydney Water's requirements, the NSW Code of Practice – Plumbing and Drainage, Council's DCP and Technical Standards. The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved design stormwater management plans and Council's specification (AUS-SPEC).
(Reason: Prevent nuisance flooding)

56. Grated Box Drain

For stormwater control a 225 mm wide grated trench drain with a heavy duty removable galvanised grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The trench drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

(Reason: Proper disposal of stormwater)

57. Certification of OSD

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 the appendix of Council's Technical Standard No.1.

(Reason: Legal requirement)

58. Works As Executed Plans - OSD

Upon completion of the OSD System, the following shall be submitted to the Principal Certifying Authority:

- 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.
- 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)

59. Works As Executed Plans – Rainwater Reuse

Upon completion of the Rainwater Re-use System, the following shall be submitted to the Principal Certifying Authority:

- Work-as-executed plans based on the approved stormwater plans from a registered surveyor to verify that the volume of storage, invert levels of inlet, overflow pipes and discharge outlet 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.
- Plumber's certification that the Rainwater Re-use system has been fitted with proprietary first flush device and connected to non-potable use including toilet flushings, laundry and landscape irrigations. All works completed shall comply with the current plumbing requirements of Sydney Water and Committee on Uniformity of Plumbing and Drainage Regulations of NSW.

(Reason: Record of works)

60. Certification of the Basement Pumpout Drainage System

Upon completion of the pump-out system, the following shall be submitted to the Principal Certifying Authority.

- A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as-built pumpout system complies with Part C5 of Council's DCP, all relevant codes and standards and the approved stormwater management plans.
- 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.
- Certification from a licensed plumber to ensure that the constructed pump-out system complies with the current plumbing requirements of Sydney Water and Committee on Uniformity of Plumbing and Drainage Regulations of NSW.

(Reason: Ensure Compliance)

61. Sign for On-Site Detention (OSD) System

An aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the OSD system.

The wording for the plaque shall state *"This is the On-Site 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)

62. Confined Space Sign

Securely install a standard confined space danger sign in a prominent location within the immediate vicinity of access grate of the on-site detention system.

(Reason: Safe access to tank)

63. 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 detention (OSD) 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 instruments can be created under Section 88E (3) of the Conveyancing Act 1919 using Form 13PC and 13RPA respectively. The request forms shall be lodged together with Council's Standard Lodgement Form which is

available from Council upon requested. The relative location of the on-site detention system, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

Documentary evidence of registration of these instruments with the Land and Property Management Authority shall be submitted to Council.

(Reason: Maintenance requirement)

64. Documentary Evidence of Positive Covenant, Engineers Certificate

The following documentary evidence of the completed drainage works shall be submitted to Principal Certifying Authority and Council: -

- Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system and/or plumber's certification of the as-built rainwater reuse system.
- Work-as-Executed plans highlighting in red based on the approved stormwater management plans from a registered surveyor for the as-built OSD system and/or rainwater reuse system.

(Reason: Public record)

65. Temporary Ground Anchors – Supervision

A professional Geotechnical Engineer shall be on site to supervise the piling, excavation and finally the installation and stressing of the 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)

66. Temporary Ground Anchors – Destressing

All damages to Council's infrastructures due to the works associated with the piling and installation of the 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)

67. Construction of Kerb & Gutter

Construct 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 with associated pavement restoration 1 metre wide in Penshurst Street.

(Reason: Public amenity)

68. Concrete Footpath

Construct a full width concrete footpath for the full frontage of the development site in Penshurst Street. All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

69. Splay Corner for Fence

In order to ensure adequate sight distances for pedestrians and traffic in the frontage road, the boundary fence shall be designed and constructed by either a 2m x 2.5m splay on both sides of the driveway exit to comply with AS2890.1.

(Reason: Pedestrian safety)

70. Vehicle Access - Construction & Certification

The Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions 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 a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement.
- c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- d) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 2.2 metres has been provided between the basement floor and any overhead obstruction to comply with Section 5.3.1 of AS 2890.1 and Section 2.4 of AS2890.6.
- f) That the headroom clearance of minimum 2.5 metres has been provided to all parking spaces for people with disabilities to comply with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

71. Vehicular Crossing

A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

New vehicular crossing including reconstruction of the existing layback and/or

gutter and any associated road restoration is to be constructed 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.

The crossing is to be 5.5 metres wide 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.

For the design levels of the vehicular crossing at the property boundary, the following shall be complied with:

- At back of layback – 100 mm above and parallel to the gutter invert.
- At property boundary – 250 mm above and parallel to the gutter invert.
- At 6 metres inside the property boundary – maximum 50 mm below and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. The nature strip and footpath is to be adjusted for a minimum distance of 6 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 Principal Certifying Authority.
(Reason: Public amenity)

72. 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.
(Reason: Public amenity)

73. 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. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

(Reason: Ensure compliance)

74. Performance Bond

The Applicant shall lodge with the Council a performance bond of \$15,000 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)

75. 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's Engineer.

(Reason: Legal requirement)

76. Turfing of Nature Strip

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)

77. Gates adjoining public footways

Any gate openings shall be constructed so that the gates, when hung will be fitted in such a manner that they will not open over the footway or public place.

(Reason: Ensure compliance)

78. BASIX Certificate

A completion certificate is to be submitted to the Principal Certifying Authority demonstrating the manner in which the measures committed to in the BASIX Certificate relevant to this development consent have been satisfied.

(Reason: Environmental Sustainability)

79. Fire Safety Certificate forwarded to NSW Fire Brigades

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 Brigades, 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)

80. Marked parking bays

All parking bays and/or truck docks and the direction of traffic movement being permanently marked on the pavement surface in accordance with the approved parking and driveway layout to the satisfaction of the Principal Certifying Authority. Where it is proposed that a building or site be used for multiple occupation, all parking bays being identified by corresponding consecutive numbers.
(Reason: Ensure compliance)

81. On-site car parking

The approved car spaces must be allocated in the following manner:

- A minimum of 1 car space per 1 bedroom and 2 bedrooms dwellings and 2 car space for the approved 3 bedroom dwelling (including 4 adaptable car spaces)
- 11 visitor car spaces (including 2 disabled car spaces)

Any subsequent strata subdivision must reflect this allocation. All visitor car spaces must be dedicated as common property.
(Reason: Ensure compliance)

82. Turntable

Detailed specifications demonstrating the required turntable will permit the loading and unloading by a Small Rigid Vehicle must be submitted to and approved by the certifying authority prior to its installation.

The turntable and loading area must be clearly sign posted on site as a designated loading area, with clear instruction on its operation, and number to contact security/building management personnel for its operation and maintenance prior to occupation of the development.
(Reason: Safe loading and unloading)

83. Visitor car parking bays

All visitor parking bays are to be grouped together and physically identified by suitable signs and/or pavement and being permanently accessible and reserved for the exclusive use of visitors to the premises.

(Reason: Ensure compliance)

84. Public Tree Maintenance

The applicant's Arborist or landscape designer is to certify that:

- i. 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 the industry standards BS5837:2005, "Guide for Trees in relation to Construction" and AS 4373 -1996 "Pruning of Amenity Trees".

(Reason: Tree management, Public Asset Management)

85. Completion of landscape works

The approved landscape works are to be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards. All planted trees cannot be pruned unless such pruning complies with Council's Tree Preservation order or removed without a permit issued under Council's Tree Preservation Order.

(Reason: Landscape amenity)

86. Weed Removal

All noxious and environmental weeds shall be removed from the property prior to completion of building works. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Occupation Certificate.

(Reason: Environmental Protection; landscape Amenity)

87. Sound Level Output Certification

The sound level output from the equipment installed for the operation of the building shall not exceed 5dBA above the ambient background noise level measured at the boundaries of the property in accordance with the current Department of Environment, Climate Change and Water NSW guidelines for noise assessment. Certification of the level of sound output is to be provided by an appropriately qualified acoustical Consultant to the Principal Certifying Authority.

(Reason: Amenity)

88. Acoustic Works – Report

To ensure all acoustic work has been completed, certification shall be provided upon completion of the works, accompanied with evidence from suitably qualified and practising acoustic engineer, to the effect that the acoustic attenuation has been carried out in accordance with the acoustic report submitted. The report shall include all post construction validation test results.

(Reason: Amenity)

89. Internal Noise Levels Residential

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

| Internal Space | Time Period | Maximum Repeatable $L_{Aeq}(1 \text{ hour})$ |
|----------------|--------------------|---|
| 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 does 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 this criteria shall be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate.
(Reason: Amenity)

90. Certification – Ventilation

Submit a Certificate from a suitably qualified mechanical engineer certifying that all work associated with the installation of the mechanical and/or natural ventilation systems has been carried out in accordance with the conditions of the development consent.
(Reason: Compliance)

91. Safer by Design

To minimise the opportunity for crime and in accordance with CPTED principles, the development shall incorporate the following:

- i. 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.

- ii. The roof of the basement parking area shall be painted a gloss white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- iii. 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.
- iv. Security keying of lifts and doors and other measures must be implemented for access control to the building entries, and car parking areas.
- v. 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.
- vi. Adequate signage within the development to identify facilities, entry/exit points and direct movement within the development.
- vii. A small portion of each storage area shall be of solid construction (i.e. Cupboard.)
- viii. Access to fire egress stairs must be armed with alarm system with suitable warning signs, and shall only be used during an emergency.
- ix. All vegetation along the side of the common pathway between the communal open space and access to the rear of buildings, and along pathways to the rear building entries to Building 2 must be maintained at a low height (600- 800mm) to eliminate concealment opportunities, as well as promote improved spread (reflection) of available light into the walkway.
- x. Side gate access and associated fencing to the south of approved Building 2 must be 2100mm in height and constructed with visually permeable materials (visual permeability of no less than 50%), and must be locked except for authorised security/maintenance access only.
(Reason: Safety and surveillance, energy efficiency, amenity)

92. Analysis of Outlet Condition

All storage outlet pipes from the OSD tank shall be above the 1 in 100 year ARI level.

(Reason: Maintain designed discharge)

93. Services - Installation of kiosk type electricity substation

Provision being made on the site for the installation of a “kiosk” - type electricity substation, in the event that Energy Australia are desirous of installing same, and any such “kiosk” is to be located at the indicative location shown on the approved landscaped plans and positioned in accordance with Energy Australia’s requirements. Should the installation of a “kiosk” be required, it is to be set back from the street frontage and screened by the provision of appropriate planting.
(Reason: Visual amenity)

94. Services - Electricity supply and telecommunication mains

All existing and proposed electricity supply and telecommunication mains and services around the perimeter of the site are to be underground to the satisfaction of Energy Australia and Telstra at the full cost of the applicant.
(Reason: Compliance)

95. Adjustment to Electricity

All existing and proposed overhead electricity supply mains and other overhead services around the street frontage of the site are to be relocated underground to the specification of Energy Australia and Willoughby City Council at full cost to the applicant.
(Reason: Public amenity)

96. Services - Mailboxes

All mail boxes provided on site are to 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)

97. Residential Flat Building - Clothes to be dried in the open air

Where provision is made to enable clothes to be dried in the open air, this clothes drying area is to be screened by a fence or landscaping on the sides visible from public areas.
(Reason: Amenity)

98. Residential Flat Building - Service Facilities

The following shall apply to the development:

- i. Electricity and telephone lines must be placed underground from the street to the building.
- ii. One storage area shall be allocated to each unit.
- iii. A master TV antenna or satellite dish is to be provided for the building. This shall suitably screened from view from the street.

- iv. All plumbing pipes and installations must be concealed in ducts and not exposed on the external walls of the building and must be adequately soundproofed.

(Reason: Ensure compliance, streetscape and amenity)

99. Residential Flat Building - Screening of rooftop plant/structures

Any rooftop or exposed structures including lift motor rooms, plant rooms etc., together with air conditioning, ventilation and exhaust systems, are to be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance.

(Reason: Visual amenity)

ADDITIONAL CONDITIONS

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.

100. Road and Footpath

Council's footpath, nature strip or roadway not being damaged and shall be kept clear at all times.

(Reason: Maintain public safety)

101. No storage on foot/roadway

Building materials, plant and equipment and builder's waste, are not to be placed or stored at any time on Council's footpath, nature strip or roadway adjacent to building sites unless prior written approval has been granted by Council.

(Reason: Safety)

102. Skips and Bins

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.

(Reason: Safety)

103. Ground Levels

The finished ground levels external to the building are to be consistent with the development consent and are not to be raised.

(Reason: Ensure compliance)

104. Asbestos Removal

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 Safe Removal of Asbestos (National Occupational Health and Safety Committee 2002).

Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS 2601 – The Demolition of Structures.
(Reason: Public Health & Safety/Ensure Compliance)

105. Asbestos Disposal

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 Principal Certifying Authority with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.
(Reason: Environmental Protection/Public Health and Safety)

106. Excavations and Backfilling

All excavations and backfilling associated with the erection or demolition of a building must be executed safely, and must be properly guarded and protected to prevent them from being dangerous to life or property.
(Reason: Safety)

107. Retaining walls and drainage

If the soil conditions require it:

- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
 - b) adequate provision must be made for drainage.
- (Reason: Safety)

108. Support for neighbouring buildings

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a) must preserve and protect the building from damage, and
 - b) if necessary, must underpin and support the building in an approved manner, and
 - c) must, at least 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.

- (2) 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.
- (3) In this clause, "allotment of land" includes a public road and any other public place.
(Reason: Safety)

109. Excess or waste concrete

Excess or waste concrete from mobile concrete agitators or concrete pumping equipment shall not be washed down, spilled or disposed of onto the road reserve, Council's stormwater system, road, pavement, reserves or Council land.
(Reason: Environmental protection)

110. Waste Classification

All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Department of Environment, Climate Change & Water, Waste Classification Guidelines (2008) prior to the material being disposed to an approved landfill or to a recipient site.
(Reason: Environmental Protection)

111. Excavation and/or Fill containment

The excavation and/or fill is to be contained wholly within the subject allotment and the created banks are to be retained to the satisfaction of the Principal Certifying Authority. If retaining walls are found to be necessary, a further Development Consent is to be obtained unless it is exempt development.
(Reason: Safety)

112. Temporary toilet facilities

Temporary toilet facilities shall be provided to the satisfaction of the Principal Certifying Authority.

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)

113. Noise Control – Offensive Noise

To minimise the noise 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)

114. Security controlled car parking

Should any security controlled car parking arrangement be introduced for the residential visitor spaces, intercom or similar system is to be used to enable free access and parking for the visitors.

(Reason: Amenity)

115. Loading and Unloading

All loading and unloading of goods is to be conducted wholly within the site and especially in any loading facility. These areas are to be maintained free of obstruction for the sole use of delivery vehicles. Under no circumstances are loading/unloading activities to be conducted from vehicles standing kerbside in Penshurst Street or from any appurtenant right of way.

(Reason: Access and amenity)

116. Site lighting

Any lighting on the site is to be directed in such a manner so that no nuisance is caused to adjoining properties or to drivers on surrounding streets.

(Reason: Amenity)

117. Refuse collection point

The loading operation, including the movement of garbage receptacle must take place on a level surface away from gradients and vehicle ramps. No waste/recycling is to be placed on the public footpaths, roadways, plazas, reserves or building colonnade areas, at any time. All garbage receptacles must be returned to the garbage storage area within the property after the bins are serviced.

(Reason: Health and amenity)

118. Transfer of bins for roadside collection

The transfer of all bins to the roadside for collection and returning them back to the bin rooms is the responsibility of the Strata Manager/caretaker of the building.

(Reason: Orderly waste collection)

119. Waste Bins

To permit the transfer of waste bins from garbage rooms located in basement area to ground level for collection by motorised equipments the following must be provided by the development:

- Load does not exceed 500Kg
- Coarse surface texture on the concrete ramp shall be a coarse broom finish or greater.

- Ramp is kept clean and free of contaminants that might reduce slip resistance.
- Operator training in accordance with manufactures recommendations.
- The wheeled bin design shall apply a constant downward force on the Tow Cart's lift head in both forward and reverse travel, regardless of load position and size.

The above requirements must be incorporated into any Building Management Plan and/or Strata Management Plans of the approved buildings.

120. Maintenance of bins

The garbage and recycling bins shall be cleaned periodically and maintained in working order.

(Reason: Health and Amenity)

121. 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)

122. Trees on adjoining properties

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

123. Underground Utility Services

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)

124. Vehicular Access and Garaging

Driveways and vehicular access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access must be designed and constructed to comply with the minimum requirements of AS2890.1 "Off-Street car parking".

(Reason: Vehicular access)

125. Public Infrastructure Restoration

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction 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.

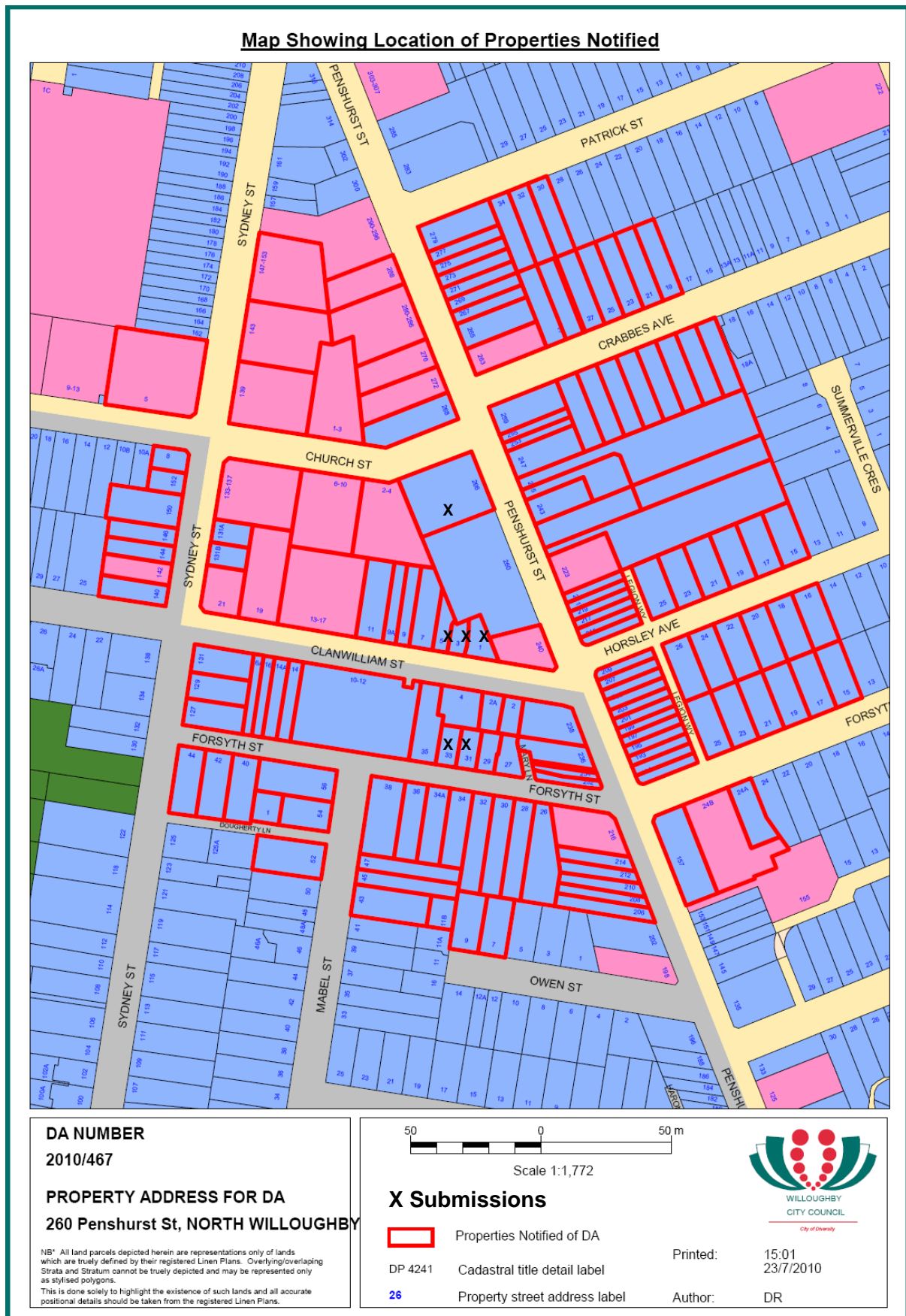
(Reason: Protection of Public Assets)

126. Street Signs

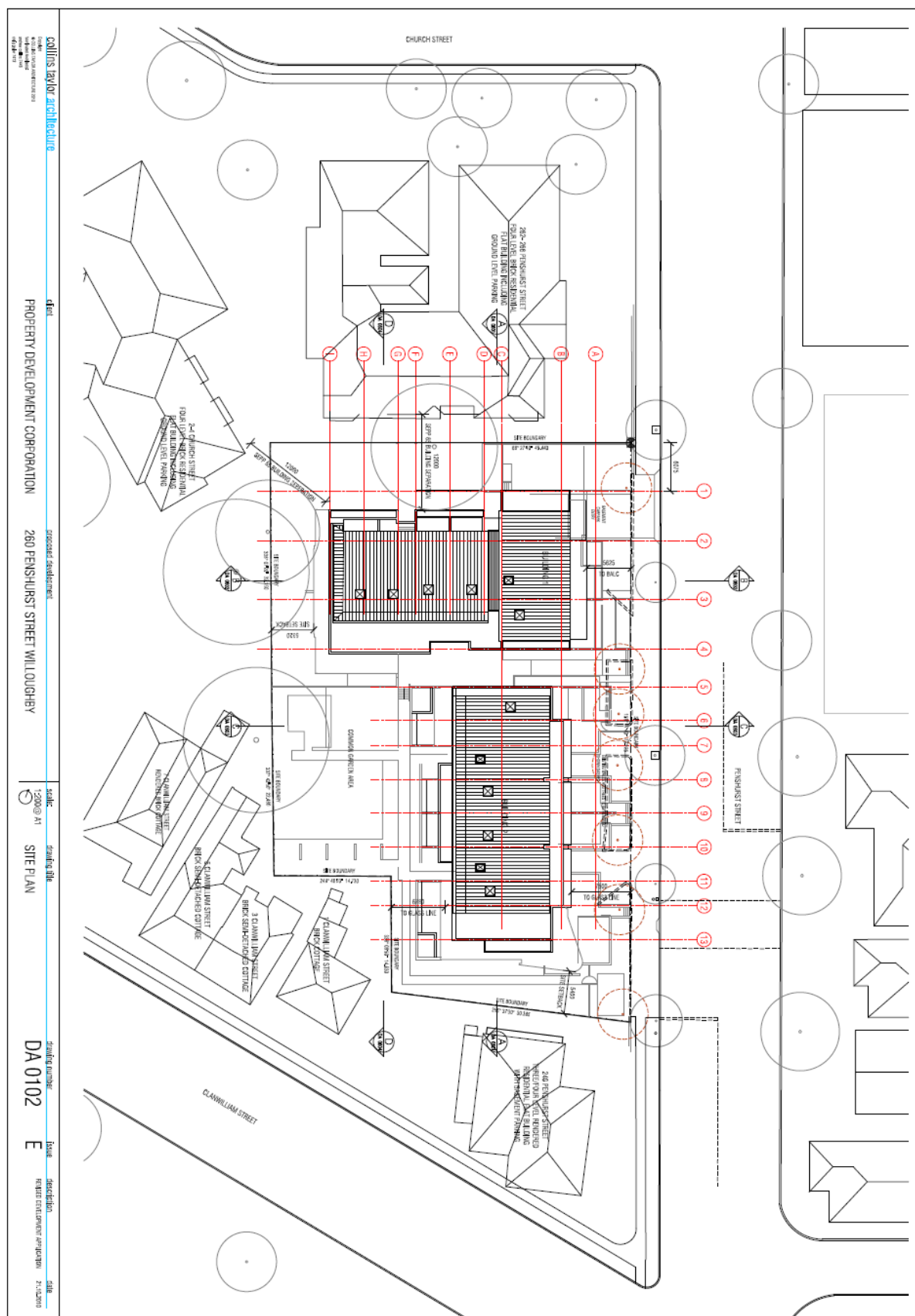
The applicant is responsible for the protection of all regulatory / parking / street signs fronting the property. Any damaged or missing street signs or necessary changes to regulatory signs as a consequence of the development and associated construction works are to be replaced at full cost to the applicant. All works/regulatory signage associated with the development shall be at no cost to the RTA and/Council.

(Reason: Protection of Public Assets)

Attachment 2 - NOTIFICATION & SUBMISSIONS MAP



JRPP (Sydney East Region) Business Paper – (Item 1) (25 November 2010) – (2010SYE051)



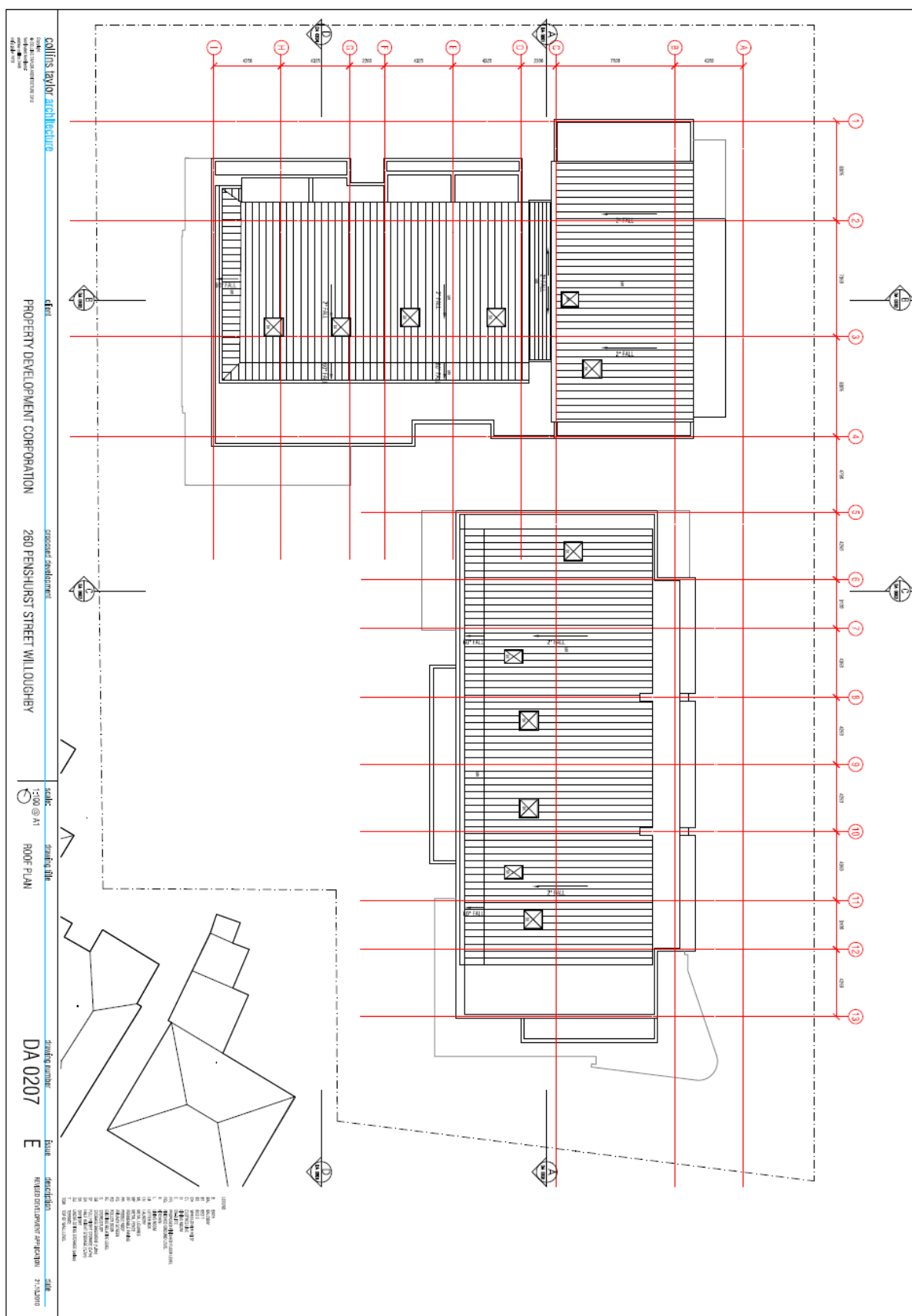
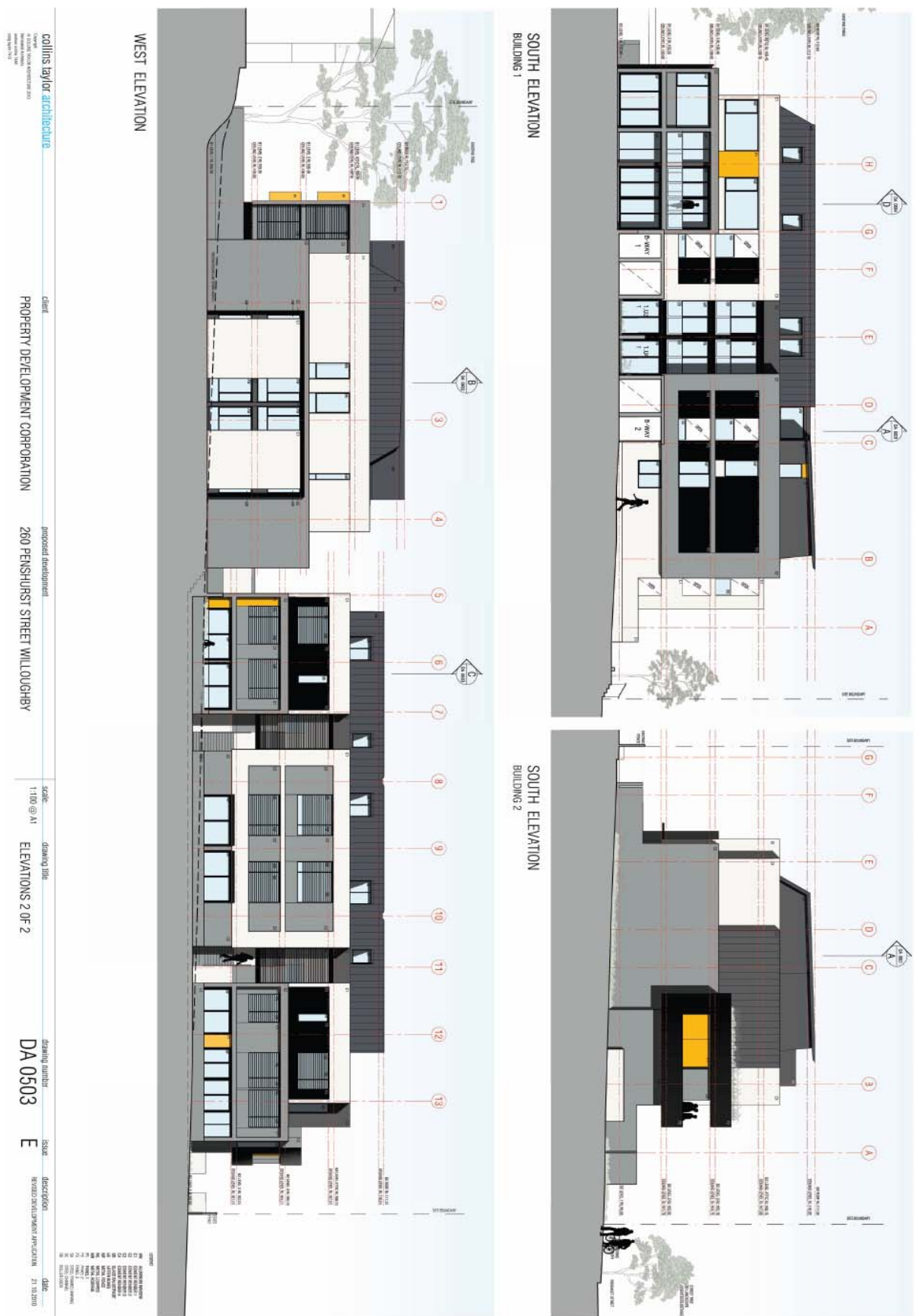
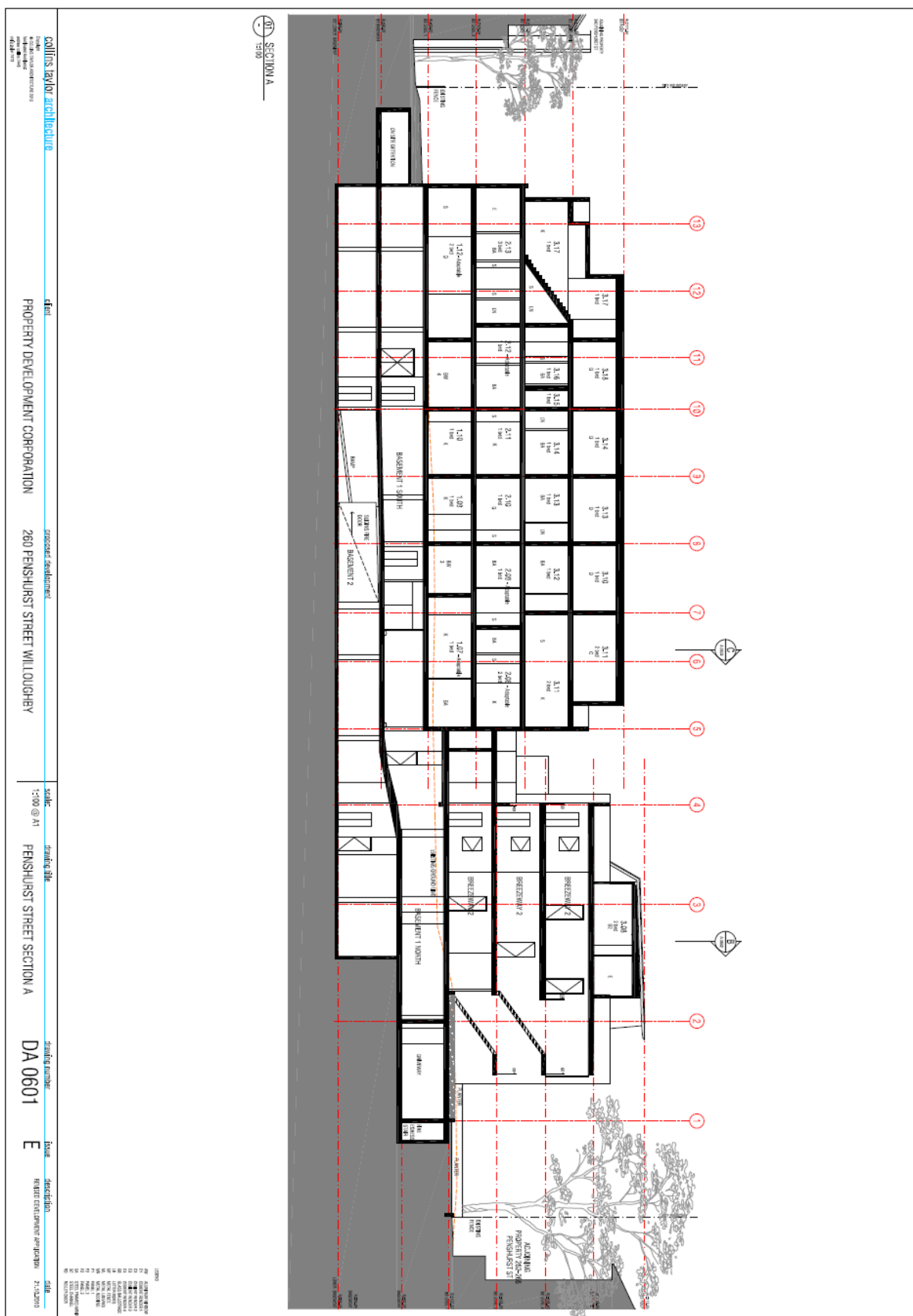




Figure 3 - Street Elevation







Attachment 4 – SUBMISSION ISSUES

4/266 Penshurst St, NORTH WILLOUGHBY

The correspondent requests that the proposed planting near the northern boundary of the site adjoining the courtyard of No 4/266 Penshurst Street, including three spotted Gum tree, and two Christmas trees be deleted from the proposed development. The correspondent is concerned about any falling branches and leave into the correspondent's courtyard area and causing blocked drains and the like.

276 Willoughby Road

The correspondent is a medical practitioner, who wrote in support of the submission made by the correspondent at 4/266 Penshurst Street, and claimed that the proposed new planting would exacerbate the plant allergies and the health of the correspondent at 4/266 Penshurst Street would also make it difficult to carry out frequent maintenance.

1 Clanwilliam St, NORTH WILLOUGHBY

- The proposal does not provide for any reasonable transition between high density 3 and 4 storey apartments and single level heritage cottages.
- The excessive size of the proposal, as evidenced by the breaches of development controls relating to FSR and number of floors (amongst others), will dwarf the adjoining heritage cottages and therefore will have considerable heritage impacts.

3 Clanwilliam St, NORTH WILLOUGHBY

- The non compliance with site coverage. It is in excess of planning controls by approximately 30%.
- The Floor Space Ratio is in excess of planning controls by approximately 20%.
- The proposed height of the buildings, designed as 4 level structures, do not comply with the definition of height controls stated within the current Council DCP.

5 Clanwilliam St, NORTH WILLOUGHBY

- The proposal has a FSR under WLEP 1995 of 1.09:1. This exceeds the maximum allowable FSR of 0.9:1 by approximately 21% which equates to 566m² of gross floor area. In unit terms this represents approximately 11 additional 1-bed units or approximately 7 additional 2-bed units.
- Under the GFA definition in draft WLEP 2009 the GFA in excess of the maximum allowable FSR is 387m². This equates to approximately 7~8 additional 1-bed units or approximately 4~5 additional 2-bed units.
- The development has a site coverage significantly exceeding the DCP requirement for a 3 storey development of 30% (892m²) maximum and for a 4 storey development of 28% (832m²) maximum. The proposed site coverage of 36% (1092m²) is 200m² (22.4%) and 260 m² (31.25%) respectively over the maximum allowable site coverage. The increased site coverage has resulted in the building encroaching closer to the boundaries of the single storey heritage dwellings than it would if it were a compliant development eg. the southern end of Building 2 and the west-facing facades.

31 & 33 Forsyth Street North Willoughby

- Size and height of the proposed development being out of character with the area, particularly its four storey nature
 - The proposed development will exacerbate existing traffic and parking problems in the area
 - The construction of the proposed development will be disruptive to the area, and concerned that the proposed excavation will cause damages to the correspondent's property
-