

## WILLOUGHBY COUNCIL - DA 2014/445

### APPLICANT'S PROPOSED MODIFICATIONS TO DRAFT CONDITIONS OF CONSENT

#### A) Add an additional condition

##### 160. Requirements for a Construction Certificate for Demolition and Excavation

Prior to the issue of a construction certificate for demolition and excavation, the following conditions must be complied with:

3. Section 94A Contributions
5. Sydney Water 'Quick Check' Certificate
12. Heritage - Photographic Survey
14. Traffic Management Plan
16. Damage Deposit
17. Temporary Ground Anchors
18. CCTV Report of Existing Council Pipe System
22. Construction Management Plan (CMP)
25. Tree Management Plan
29. Contaminated Land – Remedial Action Plan
30. Hazardous Building Material Assessment
36. Surrender of Consent
37. Dilapidation Report of Adjoining Properties
38. Waste Management Plan
40. Building Site Hoarding
41. Site Management
44. Geotechnical Report
45. Dilapidation Report of Council's Property

Reason: The additional condition clarifies which conditions are required to be met to issue a construction certificate for demolition and excavation only. This is a more orderly and economic use of the land as it will enable preliminary works to commence during the preparation of the full construction certificate.

#### B) Replace the time frame for Condition 2 to be “Prior to the Issue of a Construction Certificate” rather than “Prior to making an Application for a Construction Certificate”.

Reason: Condition 2 incorporates engineering modifications required by council prior to commencing construction works that are of a similar nature to other engineering conditions. In order to ensure that the conditions are met, the Principal Certifying Authority must check them prior to issuing a construction certificate. There is no third party assessment possible before a construction certificate is lodged. Furthermore, the specific conditions relate to construction, and their completion should not delay excavation works being undertaken, if a construction certificate for demolition and excavation is validly issued.

**C) Replace condition 37 with the following condition.**

**37. Dilapidation Report of Adjoining Properties**

A photographic survey and dilapidation report on all adjoining properties at 17 Albert Avenue, 268,339,329-331,315 and 240 Victoria Avenue, 47,51-55, 57,59,61-63 Hercules Street, 12,14,16,20 and 22 Albert Avenue and 47 Oscar Street; detailing the physical condition of those parts of the properties within the zone of influence of any excavation or other works associated with the construction of the development. The extent of the adjoining properties to be covered by the dilapidation report shall be determined by a qualified geotechnical or structural engineer. The dilapidation reports will cover the physical condition of those properties, both internally and externally, including but not limited to, such items as walls, ceilings, roof, structural members and other similar items, shall be submitted to the certifying authority for approval prior to the relevant construction certificate. The survey and report is to be prepared by an appropriately qualified person and provided to the owner of affected adjoining property.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the certifying authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Reason: The council's original dilapidation condition includes over 180 properties that are up to 75 metres away from the subject site. The applicant's proposed condition requires a qualified geotechnical or structural engineer to determine which properties are within the zone of influence of the proposed works and procure a dilapidation report for those properties.

**D) In Condition 8, replace one of the Affordable Housing apartments that is listed to be transferred to Council (Unit F103) with a different apartment of the same size (Unit H105).**

Reason: To optimise the construction program, the applicant intends to stage the delivery of the buildings and the Hercules North building (which includes Unit F103) will be the last to be completed. In order to deliver the affordable housing apartments within council's time expectations, the applicant proposes to deliver an apartment that will be completed earlier.

**E) Replace the time frame for Condition 8 to be “Prior to the Issue of an Occupation Certificate” rather than “Prior to the Issue of a Construction Certificate”.**

Reason: Condition 8 requires the applicant to enter into a Deed with Willoughby Council that includes wording which prohibits the applicant from lodging a Section 96 Application which amends the Affordable Housing apartments without the prior written consent of the Council (which may be withheld at council's sole discretion). Entering into such a Deed before construction is complete would remove the usual rights of an independent assessment of a Section 96 Application which incorporates Affordable Housing. The Council's right to obtain the affordable housing is protected as the Deed must still be entered into prior to the issue of an Occupation Certificate.