

WILLOUGHBY COUNCIL - DA 2014/445

APPLICANT'S PROPOSED MODIFICATIONS TO DRAFT Conditions OF CONSENT	RESPONSE FROM WILLOUGHBY COUNCIL
<p>A) Add an additional condition</p> <p>160. Requirements for a Construction Certificate for Demolition and Excavation</p> <p>Prior to the issue of a construction certificate for demolition and excavation, the following conditions must be complied with:</p> <ul style="list-style-type: none"> 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 <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>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.</i></p> </div>	<p>Agreed to add an additional condition as follows:</p> <p>160. Requirements for a Construction Certificate for Demolition and Excavation</p> <p>Prior to the Issue of a Construction Certificate for Demolition and Excavation, the following conditions must be complied with from the sections <i>Prior to Issue of a Construction Certificate & Prior to Commencement:</i></p> <ul style="list-style-type: none"> 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 34. Acoustic Assessment (as relevant to Demolition and Excavation works) 36. Surrender of Consent 37. Dilapidation Report of Adjoining Properties 38. Waste Management Plan 39. Licensee Details 40. Building Site Hoarding 41. Site Management 42. Public Risk Insurance Policy 44. Geotechnical Report 45. Dilapidation Report of Council's Property 46. Permits and Approvals Required (Reason: Ensure Compliance and Amenity)

<p>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”.</p> <div data-bbox="236 465 796 1048"> <p><i><u>Reason:</u> 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.</i></p> </div>	<p>Not supported.</p> <p>Council’s Engineer made the following comments:</p> <p>The arrangement of the conditions of consent shall be maintained. In particular the following conditions of consent which have been provided as “Prior to the lodgement of an application for a construction certificate”:</p> <ol style="list-style-type: none"> 1. Revised Stormwater Management Plans 2. Driveway Long Section 3. Sight triangles <p>These conditions of consent are required at this stage and not prior to issue of a construction certificate, as these issues are critical to the design of the proposal. The resolution of these 3 conditions of consent may require redesign of the proposal and it has been considered necessary to have this potential redesign of the development resolved to Willoughby City Councils satisfaction.</p>
<p>C) Replace condition 37 with the following condition.</p> <p>37. Dilapidation Report of Adjoining Properties</p> <p>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</p>	<p>Agreed with, with minimal changes to the standard condition; condition 37 can be replaced with the following:</p> <p>37. Dilapidation Report of Adjoining Properties</p> <p>Submit a photographic survey and report of the adjoining properties at 17 Albert Avenue; 268, 339, 329 to 331, 315 and 240 Victoria Avenue; 47, 51 to 55, 57, 59, 61 to 63 Hercules Street; 12, 14, 16, 20 and 22 Albert Avenue and 47 Oscar Street to the PCA and all owners of these adjoining properties. Such photographic survey and report shall be prepared by a suitably qualified person, detailing the physical condition of those parts of the properties within the zone of influence of any excavation or other works associated with the construction of the development, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary.</p> <p>The extent of the adjoining properties to be covered by the dilapidation report shall be determined by a qualified</p>

<p>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.</p> <p>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.</p> <p><u>Reason:</u> 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.</p>	<p>geotechnical or structural engineer from the list above, but must include 17 Albert Avenue.</p> <p>In the event of a property owner refusing to allow access to carry out the photographic survey, the proponent must demonstrate in writing to the PCA, and provide a copy to Council, that the purpose of the survey was made clear to the property owner and that reasonable attempts to obtain access were made. (Reason: Protection of adjoining owners)</p>
<p>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).</p> <p><u>Reason:</u> 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.</p>	<p>Agreed.</p>
<p>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".</p>	<p>Agreed, however the condition must incorporate the wordings:</p> <p>"The Deed is to be generally in accordance with the Housing Transfer</p>

<p><u>Reason:</u> 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.</p>	<p>Deed template available at Council and is to be submitted to the Council and executed prior to the issue of <u>any</u> Occupation Certificate, including prior to the issue of an Interim Occupation Certificate."</p>
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