

JRPP No	2014SYE128
DA Number	DA-2014/445
Local Government Area	Willoughby City Council
Proposed Development	Demolition of existing structures and construction of five (5) mixed use buildings containing retail premises, business premises, shop-top housing, car parking, childcare centre, landscaping, restoration of a heritage building and associated works
Street Address	36-38 Hercules Street & 256 Victoria Avenue, CHATSWOOD NSW 2067
Applicant/Owner	Chatswood Place Pty Ltd
Recommendation	Approval
Reports by	Ana Vissarion - Development Planner
Report date	18 August 2015
Supplementary report date	9 October 2015

Supplementary Assessment Report - Addendum to Clause 4.6 – Exceptions to Development Standards

Under SEPP 1 (which does not apply any more where WLEP applies), in order to establish that the application of a development standard is unreasonable or unnecessary in the circumstances of the case it is sufficient to show that the development achieves the objectives of the development standard (*Wehbe v Pittwater Council* [2007] NSWLEC 827).

However, the decision in *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 indicates that showing that the development achieves the objectives of the development standard appears to be insufficient to justify 4.6(3)(a) that a development is unreasonable or unnecessary in the circumstances of the case for the purposes of an objection under Clause 4.6.

Further, the requirement in Clause 4.6(3)(b) to justify that there are sufficient environmental planning grounds for the variation, may well require identification of grounds particular to the circumstances of the proposed development – as opposed merely to grounds that would apply to any similar development on the site or in the vicinity.

Under Four2Five, the objection further needed to justify under Clause 4.6(3)(a) that the development standard was unreasonable or unnecessary on grounds other than that the development achieved the objectives of the development standard.

The applicant summarised these principles as follows:

- a) That the relevant objectives are those stated in the controls not unidentified underlying objectives;
- b) That sufficient environmental planning grounds have to be particular to the circumstances of the proposed development to the site; *and*

- c) That the five methods of establishing that compliance is unreasonable or unnecessary identified by *Preston J in Wehbe* remain relevant however, it is necessary to go even further, as the test of consistency with the objectives of the standard is encompassed in clause 4.6(4)(a)(ii) and is a mandatory precondition. A development that contravenes the development standard should demonstrate that as a result, it achieves the objective of the development standard to a greater degree than a development that complied with the standard.

Clause 4.4A(14) Maximum Floor Space Ratio for Shop-top Housing

On the 2nd of October 2015 a written request prepared by SJB Planning was submitted to Willoughby Council on behalf of the applicant in relation to DA-2014/445 pursuant to Clause 4.6 of the WLEP 2012 seeking an exception to a development standard contained in Clause 4.4A(14) of WLEP.

This request has been prepared having regard to the latest authority on Clause 4.6 contained in the following guideline judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2') and
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3')

The land is zoned B4 Mixed Use pursuant to the WLEP 2012.

The applicable FSR for the land is 2.5:1. The maximum FSR for the residential component of shop-top housing on the land is 1.25:1.

The proposal is for shop top housing. It has a total FSR of 2.36:1. It has a residential component of 1.87:1, which exceeds the development standard of 1.25:1.

The applicant argues that the proposed development complies with the objectives of the standard and the objectives of the zone to a better degree than a development that complied with the maximum FSR for the residential component of shop-top housing as it results in a development that locates retail and business premises towards Victoria Road via an open public plaza and at the same time protects the curtilage of the heritage item on site.

An economic report prepared by Hill PDA is also submitted on behalf of the applicant concluding that:

- i. A development that complied with the overall FSR and housing FSR standard would need to provide 11,000m² of non-residential floor space;
- ii. It is not feasible to provide that amount of non-residential floor space as the cost of providing it exceeds the price that would be recovered from the sale;
- iii. If 11,000m² of non-residential floor space was provided it would not be occupied;
- iv. The reasons for ii. and iii. is that there is no demand for non-residential floor space having regard to the distance of the site from the transport nodes and the proximity of the site to the commercial core which provides better quality and located non-residential floor space; *and*
- v. Locating non-residential floor space above ground level is not desirable.

The report demonstrates that, on this specific site at the fringe of the CBD, non-residential floor space above ground level is undesirable and would fail to add to the mix of retail, business or commercial purposes because it would either not be built or would not be used for those purposes because it would remain vacant.

As such, the proposed development which contravenes the development standard with a housing FSR of 1.87:1 achieves the FSR objectives to a greater degree than a fully complying development.

The applicant argues that a development that complied with the housing standard would defeat or thwart the objectives of the standard (Wehbe test 3), as the non-residential floor space above ground level would remain vacant which would defeat the objective of intensifying development in proximity to transport and jobs and the B4 Mixed Use zone objectives. Alternatively, the non-residential floor space above ground floor would not be developed and as such the proposal also defeats the objective of intensifying development by not appropriately providing for a public plaza, conservation of heritage item and affordable rental housing which is funded by developing in accordance with the overall FSR standard.

The applicant also argues that Council has abandoned the housing standard on the subject land by granting early consents that contravened the housing standard of 1.25:1 on part of the land (DA-2013/142). The additional land has a greater claim for variation than the land the subject of the previous consents because the additional land includes the land on which the heritage item is located and upon which the public plaza is to be created in a way that preserves the curtilage of the heritage item.

Recommendation for the Clause 4.6 Exception

The written request adequately addresses that compliance with the standard is unreasonable and unnecessary in the particular circumstances of the case and there are sufficient environmental planning grounds to justify contravention of the standard.

The proposal in its current form includes a mixture of compatible land uses, with business and retail uses in the most accessible locations of the site at ground floor, contributing to the vitality of the city centre of Chatswood. The plaza area provides an accessible open space with good amenity. The proposal consolidates most sites except 17 Albert Avenue. The development will not result in unacceptable impacts with regard to the amenity of adjoining properties.

In the circumstances of this case, the development is in the public interest because it is consistent with the objectives of the standard and the objectives of the B4 zone and it provides for an open public plaza, affordable housing and conservation of the heritage item on site. The proposed residential floor space will assist in providing each of these benefits. In this particular circumstance, allowing flexibility in the application of the standard will result in a better outcome for the site.

The development as proposed will result in an orderly and economic use of the land through maximising development yield while ensuring that the amenity of the surrounding developments is maintained. The variation the development standard is well founded as compliance with the standard is both unnecessary and unreasonable in the circumstances of the case and consent may be granted even though the development contravenes the residential FSR development standard imposed by the environmental planning instrument.

Clause 4.3 Height of buildings

A written request prepared by SJB Planning was submitted on behalf of the applicant in relation to DA -2014/445 pursuant to Clause 4.6 of the WLEP 2012 seeking an exception to a development standard contained in Clause 4.3 Height of Buildings of WLEP 2012.

This request has been prepared having regard to the latest authority on clause 4.6 contained in the following judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46

- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2') and
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3')

The particular circumstance of this site that distinguishes it from others is the heritage item located on the Hercules Street and Victoria Avenue frontage and the significant slope of the land. The siting of the heritage item requires a site specific response to ensure an appropriate curtilage.

The proposal provides a transition in scale from the low density residential development along Albert Avenue to the higher density business, retail and residential development to the north, along Victoria Avenue. The land is zoned B4 Mixed Use pursuant to the WLEP 2012. Clause 4.3(2) establishes a maximum height of building control for the site. The site has a maximum permissible height of 20 metres (Hercules & Oscar Street) and 9 metres Albert Avenue, in accordance with the Height of Buildings Map. The proposed development involves the construction of five (5) new buildings. The amended plans confirm the development has a maximum height of 10.2m in relation to the 9m height control and 27.1m in relation to the 20m height control. The maximum height of the buildings on Hercules Street and Oscar Street is to the top of the lift overrun. The maximum height of the building fronting Albert Avenue is to the clerestory. The height breach varies from 1.2m to 7.1m.

The most significant variation to the height limit occurs with the Oscar North Building. The applicant argues that a development that complied with the height control would result in a building being located hard edge to Victoria Avenue, detrimental to the heritage item curtilage and to the public plaza (as is the case with approved DA-2010/549). The relocation of floor space away from Victoria Avenue to higher built forms on Oscar and Hercules Streets allows for the public plaza and a significant improved curtilage around the heritage item. Moreover, the distribution of this floor space across more than one building ensures an appropriate scale.

The encroachment into the height control on Hercules Street is principally attributed to the roof-top structures associated with the communal landscape and recreation facilities on both buildings. These structures and facilities are setback from the edge of the level below to reduce their visibility.

In respect to the Albert Street frontage, the applicant argues that the noncompliance is a function of clerestory elements which provide architectural interest to the building. The scale of the buildings on Hercules Street and Albert Street remains consistent with the scale of buildings previously approved on this site under DA-2013/142.

The proposal complies with the maximum FSR control of 2.5:1. The scale of the proposal has also been driven by the need to ensure the redistribution of floor space through increased height along Hercules and Oscar Street facilities to enable the provision of a public plaza and a curtilage to the heritage building. Overall compliance with the height controls would result in an inferior heritage and public domain outcome (ref DA 2010/549). For this reasons, the variation to the height results in a better planning outcome for the site when considered against the approved DA-2010/549 and a development that strictly complied. The consolidation of the site to create a large street block has eliminated potential amenity and interface impacts that previously existed between the aged care facility and the DA approved for the southern part of the site (DA-2013/142).

The applicant also notes that the development standard cannot be said to be abandoned in this case. However, the height control has been varied on this site under previously approved DA-2013/142 and DA-2010/549.

Recommendation for the Clause 4.6 Exception

The written request adequately addresses that compliance with the standard is unreasonable and unnecessary in the particular circumstances of the case and there are sufficient environmental planning grounds to justify contravention of the standard.

The proposal in its current form includes a mixture of compatible land uses, with business and retail uses in the most accessible locations of the site at ground floor, contributing to the vitality of the city centre of Chatswood. The proposal consolidates most sites except 17 Albert Avenue and will not result in unacceptable impacts with regard to the amenity of adjoining properties. The plaza area provides an accessible open space with good amenity.

In the circumstances of this case, the development is in the public interest because it satisfies the objectives of the B4 Mixed Use zone and the objectives of the building height standards and generates acceptable environmental impacts in terms of overshadowing, visual impacts or view loss and a harmonious response to the heritage characteristics of the site. In this particular circumstance, allowing flexibility in the application of the standard will result in a better outcome for the site.

The proposal complies with the maximum FSR development standard applying to the site. The increased height ensures the allowable FSR is contained within reduced building footprints across the site and enables the provision of a public plaza and of a curtilage to the heritage listed building. A strictly complying development would result in a poorer urban design response to the site and the urban context and in that sense it may be said that compliance with the standard would hinder the attainment of the objects of section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act 1979.

It is concluded that the development as proposed will result in the promotion and co-ordination of the orderly and economic use and development of the land. The variation to the development standard is well founded as compliance with the standard is both unnecessary and unreasonable in the circumstances of this case and consent may be granted even though the development contravenes the height of building development standard imposed by the environmental planning instrument.

Conclusion of the Supplementary Assessment

Based on the report dated 18 August 2015, on the latest submitted documentation and the assessment above, the submitted Clause 4.6 variations to the *Floor Space Ratio for housing* development standard contained in Clause 4.4A(14) of WLEP 2012 and to the *Height of buildings* development standard contained in Clause 4.3(2) of WLEP 2012 are supported and the proposal for

DA-2014/445 for Demolition of existing structures and construction of five (5) mixed use buildings containing retail premises, business premises, shop-top housing, car parking, childcare centre, landscaping, restoration of a heritage building and associated works at 36-38 Hercules Street & 256 Victoria Avenue, Chatswood is recommended for approval subject to the attached conditions.

SCHEDULE OF CONDITIONS

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

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

1. Approved Plan/Details

The development must be in accordance with the following plans:

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Architecture	DA2.01, DA2.02, DA2.03, DA2.04, DA2.05, DA2.06, DA2.07, DA2.08, DA2.09, DA2.10, DA2.11, DA2.13, DA2.14, DA2.15, DA2.16, DA2.17 DA2.24, AD.1, AD.2, AD.3, AD.4, AD.5	B	7 Mar 2015	13 Mar 2015	Revay & Unn
Landscape	Cover sheet, 100, 107, 108 and 502 All job SS14-2894	B	-	13 Mar 2015	Site Image Landscape Architects
Landscape	101, 102, 103, 104, 105, 106, 501 All job SS14-2894	A	-	13 Mar 2015	Site Image Landscape Architects
Eng. / Stormwater	12308-01, 12308-03	D	6 Jul 2015	6 Jul 2015	ING Consulting Engineers
Eng. / Stormwater	12308-03 (retail), 12308-09	C	22 Jun 2015	23 Jun 2015	ING Consulting Engineers
Eng. / Stormwater	12308-04, 12308-05, 12308-06, 12308-07, 12308-08	C	13 Jun 2015	23 Jun 2015	ING Consulting Engineers

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

- a) any modifications which are “Exempt Development” as defined under S76(2) of the Environmental Planning and Assessment Act 1979;
- b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

2. Section 94A Contributions

A monetary contribution of \$755,045.60 (subject to indexing as outlined below) is to be paid in accordance with Section 94A of the Environmental Planning and Assessment Act, 1979.

This contribution is based on 1% of the estimated development cost of \$75,504,560.00 at 21 October 2014 and the adopted Section 94A Contributions Plan.

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Building Price Index (Enterprise Bargaining Agreement) [BPI(EBA)] between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the cash contribution is set out below.

$$NL = \$Lo + \$Lo \times \frac{[\text{current index} - \text{base index}]}{\text{base index}}$$

Where:

NL is the new section 94A levy

Lo is the original levy

Current index [BPI(EBA)] is the Building Price Index (Enterprise Bargaining Agreement) as published by the NSW Public Works available at the time of review of the contribution rate

Base index [BPI(EBA)] is the Building Price Index (Enterprise Bargaining Agreement) as published by the NSW Public Works at the date of the proposed cost of development as above

In the event that the current BPI(EBA) is less than the previous BPI(EBA), the current BPI(EBA) shall be taken as not less than the previous BPI(EBA).

Prior to payment Council can provide the value of the indexed levy.

Copies of the S94A Contributions Plan are available for inspection online at www.willoughby.nsw.gov.au
(Reason: Statutory requirement)

3. Affordable Housing Monetary Contribution

The applicant shall make a monetary contribution for the purpose of providing Affordable Housing that is calculated at 4% of the accountable total floor area of the development to Council.

In this case, additionally to the affordable housing dwellings nominated, a monetary contribution for **31.36m²** of floor space is required.

In calculating the monetary contribution reference is to be made to the market value of dwellings of a similar size and taken from the most recent median sales price of such dwellings for the Willoughby local government area as documented in the Rent and Sales Report NSW published by Housing NSW or, if another document has been approved for that purpose by the Director – General, that document.

Prior to payment of the contribution evidence shall be submitted to Council's Director of Environmental Services demonstrating how the contribution has been calculated in accordance with the above requirement.

The contribution is to be paid prior to release of any Construction Certificate.
(Reason: Ensure compliance)

4. Sydney Water 'Quick Check' Certificate

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

Plans will be appropriately stamped and the Principal certifying authority must ensure the plans are stamped by Sydney Water prior to release of the Construction Certificate.

(Reason: Ensure compliance)

5. Heritage - Photographic Survey

A photographic survey is to be submitted to the accredited certifier and a copy lodged with Willoughby City Council for its historical archives. The photographic survey is to be submitted in a report format, and shall include:

- a) A front cover marked with:
 - the name/location of the property;
 - the date of the survey;
 - the name of the company or persons responsible for the survey.
- b) A layout plan of the existing building and site; identifying rooms and features shown in the photographs.
- c) Photographs of the interior, exterior, grounds and a streetscape view of the building, labelled to indicate their location in relation to the layout plan.
Photographic records of each elevation and each room and any architectural/

decorative features or finishes are to be included. Where colour is a feature of the building (for example, the building features stained glass, leadlight or polychrome brickwork), additional colour photographs are to be included in the photographic survey report.

(Reason: Heritage conservation)

6. 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)

7. Damage Deposit

The applicant shall lodge a Damage Deposit of \$230,000 (GST Exempt) as cash, cheque or an 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. For the purpose of inspections carried out by Council Engineers, an inspection fee of \$100 (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.

(Reason: Protection of public asset)

8. 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 prior to issue of the Construction Certificate. 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)

9. CCTV Report of Existing Council Pipe System

A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the Council drainage pipeline. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
- Distance from the manholes shall be accurately measured and displayed on the video.
- All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
(Reason: Protection of public asset)

10. 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)

11. Tree Management Plan

- i) Submit to the accredited certifier a Tree Management Plan.
- ii) The Plan shall address tree protection and management on the site, and must comply with the requirements detailed in AS 4970-2009 Protection of trees on development sites, with particular reference to Chapter 4 – Tree Protection Measures.

(Reason: Tree protection)

12. Contaminated Land – Remedial Action Plan

A Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) Environment Protection Authority (EPA) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites' and
- b) Managing Land Contamination Planning Guidelines SEPP55 - Remediation of Land

The RAP shall incorporate any findings in any Preliminary or Detailed Site Investigations for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed use.

The RAP shall be submitted to Principal Certifying Authority and a copy to Council for its records for review and concurrence prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

(Reason: Environment and health protection)

13. Hazardous Building Material Assessment

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

(Reason: Environmental protection/public health and safety)

14. Acoustic Assessment

Prior to the issue of a Construction Certificate an acoustic assessment shall be undertaken by an appropriately qualified and practicing acoustical consultant - matters relevant for Demolition and Excavation only.

The assessment shall include but should not be limited to:

- Project description;
- Relevant guidelines or policy that have been applied;
- Background noise measurements;
- Details of instruments and methodology used for noise measurements (including reasons for setting descriptors used, calibration details);
- A site map showing noise sources, measurement locations and noise receivers;
- Noise criteria applied to the project (must be in accordance with the *NSW Industrial Noise Policy*);
- Noise predictions for the proposed development (must identify all operations conducted on site that may cause a noise impact to residents within and/or external to the proposed development including but not limited to the commercial/retail use, childcare centre use, use of loading bay and potential noise from vehicles entering and exiting the development);
- A comparison of noise predictions against noise criteria;
- A discussion of proposed noise mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures; and
- How compliance can be practically achieved together with a statement confirming compliance.

The Principal Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the acoustic assessment relevant for Demolition and Excavation are suitably incorporated into the Construction Certificate for Demolition and Excavation.

(Reason: Amenity)

The following conditions of consent must be complied with prior to the issue of a construction certificate for any works except Demolition and Excavation.

15. Amendments of the Engineering Documentation and Plans

The proposal is to be amended in the following manner:

A. Revised Stormwater Management Plans

(i) Overflow route

Details of a satisfactory overflow route shall be provided. This overflow route must be capable of carrying the flows for a 1 in 100 year ARI design storm, assuming that the outlet to the OSD device is fully blocked. The proposed location of the OSD tank may cause inundation of the proposed Retail area (R01) during a malfunction. For this reason it is recommended relocating the proposed OSD tank. In addition, finished ground levels of the route must be shown on the plan.

(ii) Connection to Councils stormwater network

OSD storage outlet discharge flows of 20 l/s or more shall be connected directly to Council's underground drainage system or an extension of the system. Details of this connection to Councils stormwater network shall be provided.

(iii) Hydraulic Grade Line Analysis

A hydraulic grade line analysis shall be prepared from the proposed OSD control pit to the connection to Councils trunk drainage system.

(iv) OSD Checklist

The OSD Checklist (Appendix F of Councils technical standard No.1) shall be completed, signed and included in the submitted documentation.

B. Driveway Long Section

The submitted driveway sections, Drawing DA2.24, issue A shall be revised to show the following design levels:

For the design levels of the 2 vehicular crossings in Hercules Street 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 – 240 mm above and parallel to the gutter invert.

For the design levels of the vehicular crossing in Oscar Street 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 – 200 mm above and parallel to the gutter invert.

The footpath which forms part of the proposed crossings shall have a maximum crossfall of 2.5%. It shall be noted that the maximum gradient of 5% is required for the first 6 metres from the property boundary.

The proposed crossings shall be arranged as such: a 10 metres wide vehicular crossing in Hercules Street (Loading dock), a 3.5 metres wide vehicular crossing in Hercules Street (Residential/Retail exit), and a 6 metres wide vehicular crossing in Oscar Street (Residential/Retail entry/exit) in accordance with Council's specification and Standard Drawings SD105.

C. Sight triangles

As per AS 2890 and in order to ensure adequate sight distances for pedestrians and traffic in the frontage road, sight triangles of 2 metres x 2.5 metres shall be provided on each side of all three (3) proposed vehicular crossings.

The applicant shall submit plans and specifications satisfying the requirements above to Willoughby City Council.

A letter from Willoughby City Council confirming that the chosen solution will impact the local roads and stormwater network in an acceptable way shall be submitted to the Principal Certifying Authority with the amended plans and documentation.

These amended details and plans deemed acceptable by Willoughby City Council are to be included into the Construction Certificate.
(Reason: Ensure compliance)

16. Other Amendments

The proposal is to be amended in the following manner:

- (a) All the windows shown on the approved plans and sections proposed to be located on the walls with nil setbacks to 17 Albert Avenue must be obscure and not operable for the life of the development.
- (b) The structural design of the Level 1 car park shall allow for a future connection of the basement with a potential car park located at 17 Albert Avenue in the north-eastern corner of no 17 Albert Avenue site (marked on Level 1 plan 'Possible Access for Parking'). The area fronting this potential access can be used as Residential Visitor car spaces until a Construction Certificate is granted for development at 17 Albert Avenue, making use of this access. From that moment forward, the area fronting this access must be kept clear of any obstructions and shall be marked accordingly.

Provision for a similar connection shall be made on plans at Retail level car park, below Level 1. The area fronting the potential access at this level can be used as Residential Visitor car spaces until a Construction Certificate is granted for development at 17 Albert Avenue, using this specific access. If so, from that moment forward, the area fronting the access must be kept clear of any obstructions and shall be marked accordingly.

- (c) The concrete kerb at the top of the down ramp between the retail level and plaza level shall be moved back approx. 0.5 metres to allow easier access of a B99 vehicle into the retail level car park.

Details showing compliance with this condition shall be included on the Construction Certificate plans and submitted to the Principal Certifying Authority for approval.
(Reason: Ensure compliance)

17. Fire Safety Schedule

Submission of the anticipated schedule of current and proposed fire safety measures to be implemented in the building, such fire safety schedule shall specify the minimum standard of performance for each fire safety measure.
(Reason: Compliance)

18. Additional Details and/or Information for Construction Certificate

Any requirements outlined by conditions of this consent requiring changes to be noted on plans and/or information to be submitted including compliance with the Building Code of Australia are to be incorporated within the Construction Certificate plans and/or documentation.
(Reason: Ensure compliance)

19. Affordable Housing Fittings and Finishes

The applicant is to submit to the Council details of all internal fittings and finishes of the affordable housing dwellings that are to be dedicated to Council:
Unit B105, Unit D105, Unit B205, Unit H105, Unit B304, C204, D204, D304 and Unit J105.

The applicant is responsible for obtaining written confirmation that Council is satisfied that the internal fittings and finishes are at the same standard as other dwellings within the development.
(Reason: Amenity)

20. Adaptable Units

Adaptable residential units for disabled persons are to be provided at a rate of 50% of the units. 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: Amenity)

21. External Finishes – Heritage Character

All external building material shall be in colours and textures, which are compatible with the heritage character of the locality. In this regard a schedule of these colours and textures shall be submitted to the Principal Certifying Authority.
(Reason: Visual amenity)

22. Traffic Amendments

In order to cater for the increase in traffic generated by the development, the following conditions apply:

- A. Engineering plans and specifications must be prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:
 - a) Construction of a median island or equivalent to physically restrict movements out of Oscar Street so that motorists may only turn left at Victoria Avenue.
 - b) Construction of a median island or equivalent to physically restrict movements out of Havilah Street so that motorists may only

turn left at Victoria Avenue.

Detailed plans must be submitted for approval to Willoughby Council as the road authority under the Roads Act 1993. Prior to lodging of a Construction Certificate, a written acknowledgement shall be obtained from Council's engineers confirming that this condition is appropriately addressed. All works subject to this condition are to be completed at no cost to Council.

B. The plans must be amended as follows:

- a) The retail car space in the centre of the Retail car park above the ramp-up from the Plaza level car park is to be replaced with a trolley storage area. Details are to be shown on the Construction Certificate plans.
- b) The concrete kerb at the top of the down ramp between the retail level and plaza level shall be moved back approx. 0.5 metres to allow easier access of a B99 vehicle into the retail level car park. Details are to be shown on the Construction Certificate plans.
- c) A "No Entry" sign shall be added directly to the north of Elevator C on the Retail level to prevent a tight turn from being executed by motorists. Details are to be shown on the Construction Certificate plans.
- d) Street lighting shall be added along entire Oscar Street. The design of the street lighting must comply with the requirements of AS1158.3 and other relevant standards and chosen in agreement with Council officers. Prior to lodging of a Construction Certificate, a written acknowledgement shall be obtained from Council confirming that this condition is appropriately addressed. All works subject to this condition are to be completed at no cost to Council.

C. A Parking Guidance System shall guide vehicular movements in the carpark. Details are to be shown on the Construction Certificate plans.

(Reason: Public safety and amenity)

23. 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)

24. Detailed Stormwater Management Plan (SWMP)

Submit for approval by the Accredited Certifier, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. Stormwater runoff from the site shall be collected and disposed of via an approved On-Site Detention System with a Permissible Site Discharge (PSD) of 151l/s, and a storage volume of 537m³ in accordance with Council's DCP and Technical Standards.

The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and in accordance with the stormwater management plans, prepared by ING Consulting Engineers. All drawings shall comply with Part

C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.
(Reason: Ensure compliance)

25. 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)

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

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

- a) Construction of full width Brick Paver footpath (max. 2.5% crossfall) for the full frontage of the development site plus 6m over the frontage of the adjoining property in Oscar Street in accordance with Council's specification and Standard Drawings SD110. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- b) Construction of full width Bitumen Infill footpath (max. 2.5% crossfall) for the full frontage of the development site in Victoria Avenue in accordance with Council's specification and Standard Drawings. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.
- c) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) and perambulator ramp for the full frontage of the development site in Albert Avenue and Hercules Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services

and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.

- d) Reconstruction of existing kerb and gutter for the full frontage of the development site in Victoria Avenue, Albert Avenue, Hercules Street and Oscar Street in accordance with Council's specifications and Standard Drawing SD105.
- e) Reconstruction of half road pavement for the full frontage of the development site in Victoria Avenue, Albert Avenue, Hercules Street and Oscar Street in accordance with Council's specifications (AUS-SPEC). Council's standard design traffic for this pavement is 3×10^5 ESA.
- f) Construction of: a 10 metres wide vehicular crossing in Hercules Street (Loading dock), a 3.5 metres wide vehicular crossing in Hercules Street (Residential/Retail exit), and a 6 metres wide vehicular crossing in Oscar Street (Residential/Retail entry/exit) in accordance with Council's specification and Standard Drawings SD105.
- g) Reconstruction of two (2) Council's standard kerb inlet pits with a 2.4m lintel to the existing Council's underground system, one at the corner of Victoria Avenue and Oscar Street, and the other at the corner of Victoria Avenue and Hercules Street. Step irons must be provided if depth is greater than 1.2m.
- h) Construction of Perambulator Ramps at all corners of the development site to Willoughby Council's Specification. Pram Ramps shall be designed in accordance with Council's standard drawing SD100.
- i) Include details and proposed timing for the construction of the median islands out of Oscar and Havilah Streets, of the street lighting on Oscar Street and any other works associated with the development that could temporarily impact traffic flow.

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

Design and documentation in relation to Points i) must be submitted to the Local Traffic Committee for approval prior to the issue of any Construction Certificate.

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)

27. 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.

- a) That a maximum gradient of 5% is provided for the first 6 metres from the property boundary.
- b) That the proposed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- c) 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.
- d) 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)

28. Detailed Landscape Design

Submit to the Council a detailed landscape design prepared by a qualified landscape design professional. This information is to include the following information:

- I.
 - a) Provision of full width pavement to the Hercules Street and Albert Avenue frontages of the site in accordance with Council's streetscape paving specifications.
 - b) Undergrounding of power along the full length of the Hercules Street and Albert Avenue frontages to the site.
 - c) Provision of street trees along the length of the Hercules Street and Albert Avenue frontages to the site.
 - d) Provision of soil volume for each tree under paving of a minimum 15m³.
 - e) Provision of water sensitive urban design methods of harvesting stormwater to provide water to each tree.
- II. Include a minimum of 13 new street trees to the Hercules Street frontage of the site and minimum 4 new street trees to the Albert Avenue frontage of the site.
- III. Trees are to be selected from Council's Street Tree Masterplan, Precinct 1: Chatswood CBD - Proposed Street Tree Species list, to the satisfaction of Council's Tree Management Officer.

Landscaping plans addressing the above along with a letter from Council confirming the plans satisfactory address the issues above are to be submitted to the Principal Certifying Authority for approval prior to issue of a construction certificate.

(Reason: Landscape amenity)

29. Internal Noise Levels Residential

To minimise the 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	Criteria $L_{Aeq}(\text{period})$
Living Areas	Any time	40 dB(A)
Sleeping Areas	Day (7am – 10pm)	40 dB(A)
	Night (10pm – 7am)	35 dB(A)

Note:

1. *The above criteria 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 Construction Certificate.

(Reason: Amenity)

30. 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:
 - i) AS1668.1, AS1668.2 and AS3666.1 as applicable; and/or
 - ii) Alternative solution using an appropriate assessment method

Details of all mechanical ventilation and exhaust systems, and certification provided by an appropriately qualified person verifying compliance with these requirements, shall be submitted to the Principal Certifying Authority.

(Reason: Ensure compliance)

31. Internal Noise Levels Commercial

To minimise noise intrusion from any external noise source on the commercial component of the development, the building shall be designed and constructed to comply with the requirements of Australian Standard AS2107-2000 – Acoustics – Recommended design sound levels and reverberation times for building interiors.

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

(Reason: Amenity)

32. Kitchen Fitout Details

The fitout of the food preparation kitchen areas for the Childcare Centre must comply with Australian Standard *AS4674-2004 Design, Construction and Fitout of Food Premises* and with the requirements of the Food Safety Standards. Detailed plans shall be submitted to the Principal Certifying Authority together with certification from a suitably qualified person that the fitout complies with the standards prior to a Construction Certificate being issued.

The plans are specifically required to show compliance with the following:

- a) The kitchen design and layout must ensure effective operation with a safe flow from raw and cooked food, suitably located hand washing facilities, separate wash areas for food preparation & cleaning of utensils/equipment and suitable storage facilities for dry goods and hot & cold food storage.
- b) The premises shall have separate facilities for the storage of staff clothing/personal belongings, office materials and for storing cleaning chemicals.

- c) A dedicated hand wash basin/s shall be located in each area where contamination of the hands is likely to occur and must be within 5m from any place where food handlers are handling food. The hand wash basin/s shall be of a suitable size (500mm x 400mm), fixed to the wall at bench height and accessible at all times.
- d) All floor and wall finishes to the food preparation/storage areas must be of an approved material that is impervious to moisture.
- e) Floors in the food preparation/storage areas shall drain to a floor waste and be coved at the intersection of the walls.
- f) All walls must be solid construction with no voids or gaps.
- g) All ceilings above the food preparation/storage areas must be of an impervious material such as plasterboard that is free of open joints.
- h) A double bowl washup sink with a minimum bowl size of 450mm x 300mm x 300mm and a separate designated food preparation sink shall be provided in the food preparation kitchen area.
- i) The cooking equipment and dishwasher shall be provided with mechanical ventilation.
- j) The openings to the restaurant in particular to the areas consisting of bi-fold doors shall be pest-proofed against flying insects by a mechanically ventilated air curtain that prevents insects entering.

(Reason: Health and compliance)

33. Noise Mechanical Services

To minimise the impact of noise onto residential receivers, all mechanical services shall be designed and installed to ensure ambient noise levels are maintained. Details of the proposed equipment, siting and any attenuation required shall accompany the application for Construction Certificate.

(Reason: Amenity)

34. Acoustic Assessment

Prior to the issue of a Construction Certificate for all other works except for Demolition and Excavation, an acoustic assessment shall be undertaken by an appropriately qualified and practicing acoustical consultant, as relevant for the remainder of the works. The assessment shall include but should not be limited to:

- Project description;
- Relevant guidelines or policy that have been applied;
- Background noise measurements;
- Details of instruments and methodology used for noise measurements (including reasons for setting descriptors used, calibration details);
- A site map showing noise sources, measurement locations and noise receivers;
- Noise criteria applied to the project (must be in accordance with the *NSW Industrial Noise Policy*);
- Noise predictions for the proposed development (must identify all operations conducted on site that may cause a noise impact to residents within and/or external to the proposed development including but not limited to the commercial/retail use, childcare centre use, use of loading bay and potential noise from vehicles entering and exiting the development);
- A comparison of noise predictions against noise criteria;
- A discussion of proposed noise mitigation measures, the noise reduction likely and the feasibility and reasonableness of these measures; and

- How compliance can be practically achieved together with a statement confirming compliance.

The Principal Certifying Authority (PCA) must ensure that the acoustic mitigation measures identified in the acoustic assessment and relevant to the works are suitably incorporated into the development prior to the issue of the Construction Certificate.

(Reason: Amenity)

35. Internal Noise Levels - Childcare

The noise levels within the childcare centre must comply with the following:

- internal noise levels within indoor play or sleeping areas of the centre, when the childcare centre is in operation shall not exceed L_{Aeq1hr} 40 dB(A).
- intrusive noise onto any outdoor play or activity area, when the childcare centre is in operation shall not exceed L_{Aeq1hr} 55 dB(A).

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 Construction Certificate.

(Reason: Amenity)

36. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council (*except it is to be modified such that nothing shall prevent the applicant from lodging a Section 96 application for Council's consideration*) and is to be submitted to the Council and executed prior to the issue of a construction certificate for any works except Demolition and Excavation.

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

The construction certificate plans should demonstrate that the physical requirements specified in the Housing Transfer Deed are satisfied.

The affordable housing dwellings providing a total gross floor area of 634m² are to be dedicated to Willoughby City Council for the purpose of affordable housing in accordance with Clause 6.8 of Willoughby Local Environmental Plan 2012 as outlined below:

Unit B105 and Unit D105 – all studio apartments,
Unit B205 and Unit H105 – all 1 bedroom apartments,
Unit B304, C204, D204 and D304 – all 2 bedroom apartments, and
Unit J105 - 3 bedroom apartment.

The units above must have a total of 8 car spaces on title, in accordance with the requirements of WDCP Part C.6 – Access, Mobility and Adaptability.
(Reason: Ensure compliance)

PRIOR TO COMMENCEMENT

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

37. Surrender of Consent

In order for the development of land to proceed in a coordinated and orderly manner and to avoid potential conflicts with this consent, prior to commencement of any works and in the manner prescribed by clause 97 of the Regulation, the applicant shall surrender the following development consents
DA-2010/549 (2010SYE069) and DA-2013/142 (2013SYE035).
(Reason: Statutory requirement)

38. Dilapidation Report of Adjoining Properties

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.

The extent of the adjoining properties to be covered by the dilapidation report shall be determined by a qualified geotechnical or structural engineer from the list above, but must include 17 Albert Avenue.

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)

39. 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 the Principal Certifying Authority.

(Reason: Environment protection/waste reduction)

40. 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 the Principal

Certifying Authority.

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

(Reason: Information)

41. Building Site Hoarding

Provision of a hoarding, complying with WorkCover NSW requirements which is to be erected to restrict public access to the site (including demolition and/or excavation site) and building works, materials or equipment. A separate application is to be made to Council's Infrastructure Services Division for this purpose should the hoarding be located on Council property.

(Reason: Safety)

42. Site Management

A site Management Plan shall be submitted to and approved by the Principal Certifying Authority. The site management plan shall include the following measures as applicable.

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

The site management measures shall be implemented prior to the commencement of any site works and maintained during the construction period. A copy of the approved Site Management Plan shall be conspicuously displayed, maintained on site and be made available to the PCA/Council officers upon request.

(Reason: Environment protection, public health and safety)

43. Public Risk Insurance Policy

The Public Risk Insurance Policy held by excavator contractor must not be less than \$10 million and must contain a clause indemnifying Council against any claims in respect of the excavation works. A copy of this policy is to be submitted to Council.

(Reason: Limit liability)

44. Geotechnical Report

The site and adjoining sites (including the road reserve or other public space) are to be inspected by an independent Geotechnical Engineer and a comprehensive report

shall be submitted to the accredited certifier indicating 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: Protection of adjoining properties)

45. 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)

46. Permits and Approvals Required

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

- 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)

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 the any works except Demolition and Excavation.

47. 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 Principal Certifying Authority.

(Reason: Ensure compliance)

48. Application for 3 Vehicle crossings

Submit an application with fees to Council for the construction of 3 plain concrete vehicular crossings.

(Reason: Protection of public asset)

49. Removal of Trees in Public Areas

Written notification is to be provided to Council giving a minimum of 7 days warning prior to undertaking the removal of any trees approved for removal in public areas.

(Reason: Management of Public Land)

50. Internal Noise Levels - Childcare

The noise levels within the childcare centre must comply with the following:

- internal noise levels within indoor play or sleeping areas of the centre, when the childcare centre is in operation shall not exceed L_{Aeq1hr} 40 dB(A).
- intrusive noise onto any outdoor play or activity area, when the childcare centre is in operation shall not exceed L_{Aeq1hr} 55 dB(A).

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 Construction Certificate.

(Reason: Amenity)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

51. Hours of Work

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

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

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 96 of the Environmental Planning and Assessment Act 1979 must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how this will be minimized, and be accompanied by the required fee. Note: This S96 application may require re-notification in some circumstances.
(Reason: Ensure compliance and amenity)

52. 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)

53. 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 and be maintained throughout construction.
(Reason: Safety)

54. 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 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)

55. 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)

56. Suitable Barricades

Suitable barricades shall be erected during building works on Councils footpath and where directed by the Principal Certifying Authority and/or Council to protect pedestrians using the footpath.
(Reason: Public safety)

57. Demolition Work AS 2601

Demolition works being carried out in accordance with the requirements of AS 2601 "The demolition of structures".
(Reason: Safety)

58. Suitable Footpath Crossing Provided

Adequate provision is to be made to ensure that a suitable footpath crossing is provided to the site so as to allow safe pedestrian access along the footpath area at all times.
(Reason: Protection of public safety)

59. 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)

60. Wash Down and Shaker Areas

During Demolition, Excavation and Construction, wash down and shaker areas are to be provided with facilities for the collection and treatment of waste water.

(Reason: Environmental protection)

61. Rock Hammering/Sawing

Having regard to the residential nature of surrounding area rock sawing is to be used in preference to rock hammering during the excavation/construction phase of the development.

(Reason: Amenity)

62. Asbestos Sign to be Erected

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site.

The sign is to be erected prior to the commencement of works and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

63. 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)

64. 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 Commission 2012 (1994).

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

(Reason: Public health and safety/Ensure compliance)

65. 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)

66. Survey Certificate

Certification of the following shall be submitted to the Principal Certifying Authority by a registered surveyor:

- a) Prior to the construction of footings or first completed floor slab (i.e. prior to pouring of concrete) showing the area of the land, building under construction and boundary setbacks;
- b) At each level indicating the level of that floor to Australian Height Datum;
- c) Upon completion of the roof framing, before the roofing is laid, indicating the ridge height to Australian Height Datum;
- d) At roof slab level indicating the level of that slab to Australian Height Datum;
- e) At completion indicating the relation of the building and any projections to the boundaries, and that the building has been erected to the levels approved in the Development Application.

(Reason: Ensure compliance)

67. 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)

68. 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)

69. 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)

70. 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)

71. Swimming Pool Safety During Construction

The swimming pool is to be made safe during the construction of the dwelling, by the erection of a temporary safety fence to the satisfaction of the accredited certifier. The pool is not to be filled with water until the dwelling is completed and occupied and a child resistant barrier erected in accordance with the regulations prescribed in the Swimming Pool Act 1992.
(Reason: Safety)

72. 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)

73. Sweep & Clean Pavement

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

74. Street Signs

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

75. 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)

76. Tree Protection

- i) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on the approved plans.

- ii) The above trees must be clearly marked and protection devices in place prior to commencement of demolition or construction work to prevent soil compaction and machinery damage.
- iii) Tree roots greater than 50mm diameter are not to be removed unless approved by a qualified Arborist on site. All structures are to bridge roots unless directed by a qualified Arborist on site.
- iv) Tree protection measures must comply with the approved Tree Management Plan and AS 4970-2009 Protection of trees on development sites.
(Reason: Tree management)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

77. Benefiting Easement

In order to allow proper and orderly development of no 17 Albert Avenue, the applicant is to provide a right of carriageway to the property, registered on the Title, burdening the circulating aisle at Level 1 and at Lower Basement Retail Level (to be marked on plans) for the benefit of 17 Albert Avenue. The easement shall entitle 17 Albert Avenue owners and users to use the driveway and access within the car parking levels to access any future parking associated with a future development on 17 Albert Avenue.

Documentary evidence of registration of the easement with the Land and Property Information in NSW shall be submitted to the Principal Certifying Authority and Council prior to issue of any Occupation Certificate.
(Reason: Orderly and economic development of the land)

78. Emergency Evacuation Plans for Childcare Centre

An Emergency Evacuation Plan is to be prepared for the Childcare Centre in conjunction with the Emergency Evacuation Plan prepared for the Residential Dwellings located above the Childcare Centre.

Input shall be sought from the Fire Brigade during the Plan's preparation.
A copy of the Emergency Evacuation Plan for the Child Care is to be submitted to Council, PCA and to the Commander for North Shore LAC – NSW Police Force, Chatswood. A written acknowledgement shall be obtained attesting that the Police has no objections to the plan. The Childcare Centre must not be occupied in the absence of this acknowledgement.
A copy of the plan must be readily available on site at all times during the operation of the Childcare Centre.
(Reason: Safety and Emergency Evacuation)

79. Swimming Pool - Access

Access to the swimming pool shall be restricted by a child resistant barrier in accordance with the regulations prescribed in the Swimming Pools Act 1992.

- a) The pool shall not be filled with water, or be allowed to collect stormwater, until the installation of the child resistant barrier is completed to the Principal

- Certifying Authority's satisfaction.
- b) The barrier is to conform to the requirements of AS 1926 –
Part 1 – “Safety Barriers for Swimming Pools”
Part 2 – “Location of Safety Barriers for Swimming Pools”
- (Reason: Safety)

80. Swimming Pool Notice

The owner of the pool shall display a notice showing:

- (a) Appropriate instructions of artificial resuscitation methods.
- (b) A warning stating "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS POOL"

NB: This notice shall be kept in a legible condition and at the pool side.
(Reason: Safety)

81. Emitted Noise

The noise emitted by the

- (a) Swimming pool pump and filter
- (b) Spa pool pump and filter

equipment shall be not more than 5dBA above the ambient background noise level measured at the boundaries in accordance with the current Environment Protection Authority (EPA) guidelines for noise assessment. The equipment is not to operate between 8pm to 7am weekdays and 8pm to 8am on weekends and public holidays. A time switch is to be installed on the power source for the above equipment to ensure that the non-permitted hours are observed.
(Reason: Amenity)

82. Surface Water Runoff

Surface water runoff from paved areas shall be directed away from neighbouring properties and disposed of to the satisfaction of the Principal Certifying Authority.
(Reason: Health and amenity)

83. Roof Stormwater Disposal

Roof stormwater shall be disposed of to:

- a) Council's kerb and gutter
- b) In accordance with approved Hydraulic Engineer design

(Reason: Health and amenity)

84. 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 latest BASIX Certificate have been satisfied.
(Reason: Environmental sustainability)

85. Access for the Disabled - Disability Discrimination Act

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

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

(Reason: Access and egress)

86. Fire Safety Certificate Forwarded to NSW Fire and Rescue

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

(Reason: Safety)

87. Registration of Plan of Consolidation

All individual allotments involved in the development site (Lot 101 DP 1158779, Lot 100 DP 1158779 and Lot 1 DP 828606) being consolidated into a single allotment and evidence of the registration of the plan of consolidation to be submitted to Council prior to the issue of any Occupation Certificate.

(Reason: Ensure compliance)

88. 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 ceiling and vertical structures of the basements parking area shall be painted 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. The means to isolate the residential and commercial components of the building shall be incorporated into the development, including the security keying of lifts and doors and other measures for access control.
- 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).

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

89. Services - Electricity Supply and Telecommunication Mains

All existing overhead electricity supply and telecommunication mains and other overhead services along the entire Hercules Street frontage are to be relocated underground to the satisfaction of the relevant utility provider (eg Energy Australia, Telstra) and Willoughby City Council, at full cost to the applicant.

Existing overhead electricity supply and telecommunication mains and other overhead services along Albert Avenue frontage are to be bundled to the satisfaction of the relevant utility provider and Willoughby City Council at full cost to the applicant.

All new services and electricity connections to the development shall be located underground at full cost to the applicant.

(Reason: Public amenity)

90. 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)

91. 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.
- v. Secure bicycle parking facilities shall be provided in accordance with Willoughby Development Control Plan Part C. 4 and designed in accordance with AS2890.3.

(Reason: Ensure compliance, streetscape and amenity)

92. Affordable Housing – Fittings and Finishes

The Principal Certifying Authority must be satisfied that the affordable housing dwellings have the internal fittings and finishes at the same standard as the other dwellings within the development and in accordance with the schedule endorsed by Council.

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

(Reason: Amenity)

93. 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)

94. CCTV Report of Council Pipe System After Work

A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the Council drainage pipeline after the completion of all works. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
- Distance from the manholes shall be accurately measured and displayed on the video.
- All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
- The inspection survey shall be conducted from manhole to manhole.

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

(Reason: Ensure compliance and protection of public asset)

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

Inspection of drainage connection works to the existing Council's pipeline/pit shall be carried out by Council's Engineer. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate. For the

purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.
(Reason: Ensure compliance)

96. Grated Box Drain

For stormwater control a minimum 225mm wide grated trench drain with a heavy duty removable galvanised grate is to be provided along the boundary to collect driveway runoff at all vehicular crossings. 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)

97. On-site Water Management System

The stormwater runoff from the site shall be collected and disposed of via an approved On-Site Detention System with a Permitted Site Discharge of 151l/s, and a storage volume of 537m³ 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)

98. Sign for On-Site Detention System

An aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the On-Site Detention 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)

99. 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 Tank.
(Reason: Safe access to tank)

100. 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)

101. 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)

102. 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)

103. 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 System. The standard wording of the terms of the Positive Covenant and Restriction on the Use of Land are available in Council's Technical Standards.

The above instruments shall be created under Section 88B of the Conveyancing Act 1919 for newly created lots. For an existing lot, the instruments can be created under Section 88E(3) of the Conveyancing Act 1919 using Form 13PC and 13RPA respectively. The relative location of the On-Site Detention System, in relation to the building footprint, must be shown on the final plan of subdivision/strata plan or must be shown on the scale sketch, attached as an annexure to the request 13PC and 13RPA forms. The S88B instrument or 13PC/13RPA forms shall be lodged with Council's Standard S88B/S88E Lodgement Form with all supporting documentations listed in the Form. Council's Standard Form is available from Council upon requested.

Documentary evidence of registration of these instruments with the Land and Property Information shall be submitted to the Principal Certifying Authority and Council prior to issue of any Occupation Certificate.

(Reason: Maintenance requirement)

104. 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)

105. Sight Triangles

As per AS 2890 and in order to ensure adequate sight distances for pedestrians and traffic in the frontage road, sight triangles of 2 metres x 2.5 metres shall be provided on each side of all three (3) proposed vehicular crossings.

(Reason: Pedestrian safety)

106. Concrete Footpath

Construct a:

- a) Full width brick paver footpath for the full frontage of the development site in Oscar Street.
- b) Full width bitumen infill footpath for the full frontage of the development site in Victoria Avenue
- c) 1.5m wide concrete footpath for the full frontage of the development site in Albert Avenue and Hercules Street.

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

(Reason: Public amenity)

107. Vehicular Crossing

Construct 3 new vehicular crossings, 2 in Hercules Street and 1 in Oscar Street including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

The new crossings shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council.

Hercules Street (Loading dock)

10 metres wide vehicular crossing is to be constructed in plain concrete. The centreline of the new crossing shall be "in-line" with the centreline of the loading dock.

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 – 240 mm above and parallel to the gutter invert.

Hercules Street (Residential/Retail exit)

3.5 metres wide vehicular crossing with no splays and is to be constructed at right angles to the street kerb in plain concrete. The centreline of the new crossing shall be "in-line" with the centreline of the exit lane.

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 – 240 mm above and parallel to the gutter invert.

Oscar Street (Residential/Retail entry/exit)

6 metres wide vehicular crossing with no splays and is to be constructed at right angles to the street kerb in plain concrete. The centreline of the new crossing shall be "in-line" with the centreline of the internal driveway.

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

- At back of layback – 100 mm above and parallel to the gutter invert.
- At property boundary – 200 mm above and parallel to the gutter invert.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. 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 prior to issue of any Occupation Certificate.
(Reason: Public amenity)

108. Removal of Redundant Crossings

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

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

109. 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 prior to issue of any Occupation Certificate.
(Reason: Ensure compliance)

110. Performance Bond

The Applicant shall lodge with the Council a performance bond of \$115,000 against defective public civil works undertaken by the main Contractor for a period of twenty four (24) 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)

111. 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)

112. Construction of Kerb & Gutter

Construct new kerb and gutter together with associated half road pavement reconstruction in accordance with Council's specification for the full frontage of the development site in Victoria Avenue, Albert Avenue, Hercules Street, and Oscar Street.
(Reason: Public amenity)

113. Reconstruct Pavement

Half the road pavement including any necessary associated works adjoining to the full frontage of the development site shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 3×10^5 ESA.
(Reason: Ensure compliance)

114. Paving Bricks

Construct a full width footpath in approved paving bricks for the full frontage of the streets adjoining to the site in accordance with Willoughby City Council's Segmental Footpath Paving Code. Permission must be obtained from Council's Infrastructure Services Division and the Police Department prior to the opening and closure of the footpath and road pavement for construction works.
(Reason: Public amenity)

115. 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,
- a) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary.
- b) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- c) That the as-constructed 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 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.
- e) 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)

116. Swimming Pool – High Level Overflow

High-level overflows from the swimming pool shall be gravity fed and connected to Sydney Water's sewer via an approved system. The connection must not directly vent the receiving sewer. Upon completion, certification from a licence plumber shall be submitted to the Principal Certifying Authority certify that the connection has been made in accordance with the Sydney Water's requirements and the current plumbing codes.

(Reason: Ensure compliance and prevent nuisance flooding)

117. Tree Planting

Trees are to be planted in accordance with the following table:

No. Required	Species	Location	Min Pot Size
All trees	As indicated on the approved Landscape Plans	As indicated on the Landscape Plans	As indicated on the Landscape Plans

(Reason: Landscape Amenity)

118. 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.

(Reason: Landscape amenity)

119. Public Tree Planting

- i) Plant the following trees on Council land forward of the property:

All trees as indicated on the approved Landscape Plans

- ii) Tree species, condition and location are to be inspected by and to the satisfaction of Council's Tree Officer prior to issue of an interim or final occupation certificate.

(Reason: Landscape amenity, tree canopy recruitment)

120. Contamination/Remediation – Site Validation Report

A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) Environment Protection Authority (EPA) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- b) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority and a copy to Council for its records for review and concurrence after the completion of all remediation works.

(Reason: Environment and health protection)

121. Sound Level Output Certification

The sound level output from the use of the premises and 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 Environment Protection Authority (EPA) 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)

122. Acoustic Treatment – Certification

Certification shall be provided from a suitably qualified acoustic engineer certifying that the acoustic treatment of the building complies with the construction details approved and the relevant design noise criteria.

(Reason: Amenity)

123. Certification – Ventilation

Certification shall be provided 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 relevant Australian Standards and or alternative solution.

(Reason: Compliance)

124. Trade Waste Permit / Consent

Evidence of a Sydney Water permit or consent for the discharge of wastewater to the sewer shall be submitted to the Principal Certifying Authority. Where a permit or consent may not be required from Sydney Water certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

(Reason: Ensure compliance)

125. Food Premises

The fitout of the food premises shall comply with:

- a) Australian Standard AS4674-2004 – Design, Construction and Fitout of Food Premises.
 - b) Food Safety Standards
Standard 3.2.2 Food Safety Practices and General Requirements
Standard 3.2.3 Food Premises and Equipment.
 - c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.
 - d) No approval is granted for any remote storage area.
 - e) The business being registered with NSW Food Authority.
 - f) Comply with the requirements of Sydney Water – Trade Waste Section (grease trap).
- If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Food Surveillance Officer may be engaged to carry out the required inspection. A fee shall be charged in accordance with Council's current "Food Premises Fitout Inspection Fee" as per Willoughby Council Management Plan – Fees and Charges Schedule. The fee shall be paid prior to inspection.

Note: Copies of AS 4674 may be obtained from Standards Australia
Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

Alternatively, you may obtain a copy of the *'Food premises design, construction and fit-out guide'* from Council's Customer Service.
This guide is based on the above standards and sets out minimum requirements to achieve compliance

(Reason: Health and compliance)

126. Food Premises Database

Prior to an Occupation Certificate being issued, Council's Environmental Health Unit must be notified that the premises is being used for the preparation or manufacture of food for sale so that the premises can be registered on Council's food premises database.

(Reasons: Health and compliance)

127. 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)

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.

128. Separate Development Consent - Various

The fit-out and use of the locally listed heritage item, as well as the occupation of the commercial tenancies shall be subject of separate applications, in accordance with current legislation, zoning permissibility and this consent.

(Reason: Ensure compliance)

129. 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)

130. Erection Wholly within the Boundaries

All works (with the exception of any works approved under S138 of the Roads Act 1993) including footings, shall be erected wholly within the boundaries of the property.

(Reason: Ensure compliance)

131. Signs

A separate Development Application shall be submitted to Council for approval in respect of any proposed advertising sign which will be visible from a public place to be designed to comply with Willoughby Development Control Plan. Please note that a separate DA is not required for signs which are "Exempt Development" as defined under S76(2) of the Environmental Planning and Assessment Act 1979.

(Reason: Ensure compliance)

132. Loading and Unloading

All loading and unloading of goods is to be conducted wholly within the site and especially in any loading facility, internal dock or goods handling area. 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 Victoria Avenue, Oscar Street, Hercules Street or Albert Avenue or from any appurtenant right of way.

(Reason: Access and amenity)

133. On-site Car Parking

The on-site car parking provision shall be arranged as follows:

- 207 residential spaces;
- 49 residential visitor spaces;
- 162 commercial/retail spaces;
- 7 childcare spaces for employees;

7 childcare spaces for drop-off and pick-up.

The residential spaces shall be allocated to the apartments in accordance with WDCP provisions (1 space/ dwelling - other than studios). The residential visitor spaces, commercial spaces and retail spaces are to be accessible to tenants/visitors at all times.

A minimum of 20 bike rails and 28 bike lockers should be provided for residential and 24 bike rails and 22 bike lockers should be provided for commercial/retail.

A minimum of 21 motorcycle spaces shall be provided within the development.

The car parking allocated commercial/retail to shall provide for a minimum of 3 hours free of charges parking for the life of the development.
(Reason: Ensure compliance)

134. Hours of Operation – Child Care Centre

The hours of operation of the child care centre are restricted to the following times:

<i>Weekdays</i>	7am to 7pm
<i>Saturdays, Sundays & Public Holidays</i>	closed

Any variation to these hours is to be subject to the **PRIOR CONSENT OF COUNCIL**.
(Reason: Amenity)

135. Illumination of Building or Car Park

Illumination of any part of the building or car parking areas is to be designed in such a way to avoid adversely affecting nearby residents.
(Reason: Amenity)

136. License - Childcare

The Child Care Centre being licensed by the Department of Education and Communities and complying with the requirements of that Department and with the Education and Care Services National Law & Regulations and other relevant legislative framework for early childhood education.
(Reason: Ensure compliance)

137. Car Parking Spaces - Childcare

The seven (7) car parking spaces for drop-off / pick-up for the childcare centre located at Level 1 must be signposted for 15 min parking between the hours of 7am and 9:30am and between 3:30pm and 7:00pm, for the drop-off and pick-up of children. These spaces should be clearly marked '*childcare centre only*' during drop-off and pick-up times to reflect that they are for the exclusive use of the childcare users within the peak hours of the centre.

Outside the weekdays peak hours of the childcare centre as well as on Saturdays, on Sundays and on Public Holidays, these car parking spaces may be used by residential visitors - however, this needs to be clearly marked and suitably signposted.
(Ensure compliance)

138. Capacity of the Child Care Centre

The child care centre must have a *maximum* capacity of 67 children, of which:

- 16 children between zero(0) and two(2) years of age,
- 15 children aged two(2) and three(3) years, and
- 36 children aged between three(3) and five(5).

The child care centre must have a *maximum* capacity of 14 employees.

Any *increase* in children or staff numbers is to be subject to the **PRIOR CONSENT OF COUNCIL.**

(Reason: Ensure compliance)

139. Heritage – Maintain Portion of Existing Building

Should any portion of the existing building which is indicated on the approved plans to be retained be damaged, all the works on-site are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained.

(Reason: Heritage conservation and Ensure compliance)

140. Affordable Housing Dwellings

The affordable housing dwellings are to be dedicated to Willoughby City Council within two months of the registration of any subdivision of the development creating the areas to be dedicated and within 6 months of the issue of an Occupation Certificate for the purpose of affordable housing in accordance with Clause 6.8 of Willoughby Local Environmental Plan 2012 and Condition 76 of this consent.

148. Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, the proposed vehicle access and/or parking spaces shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification.

(Reason: Vehicular access)

149. 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)

150. Road Closure

Any closure (full or partial) of a public road is strictly prohibited without the approval of Council.

(Reason: Public protection)

151. 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)

152. 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)

153. 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)

154. 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)

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

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

156. Hand Wash Basin/s – Food Premises

A dedicated hand wash basin/s shall be located in each area where contamination of the hands is likely to occur and must be within 5m from any place where food handlers are handling food. The hand wash basin shall be of a suitable size (500mm x 400mm), fixed to the wall at bench height and accessible at all times. The basin shall be supplied with hot and cold water under pressure through an approved hands free mixing device which can be adjusted to enable the hands to be washed under hot water. A supply of liquid soap and paper towels is to be provided adjacent to the hand wash basin.
(Reason: Health & Compliance)

157. Walls – Solid Construction – Food Premises

All tenancy perimeter walls and internal walls including partition walls shall be solid construction. The walls are to be constructed in masonry, brickwork or other approved method with all voids filled with a suitable material.
(Reason: Health & Compliance)

158. Floor, Wall & Ceiling Finishes – Food Premises

All finishes shall comply with AS4674-2004 *Table 3.1, Table 3.2 and Table 3.3*. All finishes must be able to be effectively cleaned, be unable to absorb grease, food particles or water and must be unable to provide harbourage for pests.
(Reason: Health & Compliance)

PRESCRIBED CONDITIONS

The following conditions are prescribed by S80A of the Environmental Planning & Assessment Act for developments involving building work.

159. Compliance with Building Code of Australia

All building works must be carried out in accordance with the performance requirements of the Building Code of Australia.
(Reason: Compliance)

160. Support for Neighbouring Buildings

- (1) If development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on an adjoining property, the person having the benefit of the development consent must, at the person's own expense:
 - a) protect and support the building, structure or work from possible damage from the excavation, and
 - b) if necessary, underpin and support the building, structure or work to prevent any such damage, 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)

STATUTORY REQUIREMENTS

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

161. 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)

162. 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)

163. 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)

Advisory Notes:

Electromagnetic Radiation (EMR) Shielding Measures

Based on the principle of 'Prudent Avoidance' in the area of EMR it is recommended that the following measures be implemented prior to the occupation of the childcare, to protect the health and safety of children by reducing exposure to EMR within the childcare centre and outdoor play areas:

- a. Treating the exterior of the building to provide a barrier to EMR (only required to treat components which form part of the childcare centre). Treatment may include painting walls with exterior radiation shielding paint and/or providing glazing or fixed wire fly screens that block EMR.
- b. Treating shade coverings to the outdoor play area with a material which is effective barrier to EMR.
- c. Treating fences and balustrades with a material which is an effective barrier to EMR.
- d. Wireless technology such as cordless/mobile phones or Wi-Fi should not be used.