

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2014SYE143
DA Number	2014/510
Local Government Area	Willoughby City Council
Proposed Development	Demolition of the existing buildings and structures and the construction of three commercial premises and 104 shop-top housing units.
Street Address	150 MOWBRAY ROAD & 670-680 WILLOUGHBY ROAD, WILLOUGHBY NSW 2068
Applicant/Owner	CEEROSE P/L
Number of Submissions	5
Regional Development Criteria (Schedule 4A of the Act)	Capital Investment Value exceeding \$20 Million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Willoughby Local Environmental Plan 2012 • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development • State Environmental Planning Policy (Basix) • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) • Willoughby Development Control Plan • Exhibited Draft Amendments to WLEP 2012 (House Keeping amendments only) • Draft/ Amended SEPP 65 and Apartment Design Guide
List all documents submitted with this report for the panel's consideration	Attachments: 1. Notification map 2. Legal advice - shop- top housing 3. Plans & Elevations (as amended 25/03/15)
Recommendation	Deferred Commencement Approval
Report by	Annie Leung (Development Planner)
Report date	8 July 2015

150 Mowbray Road & 670-680 Willoughby Road, WILLOUGHBY NSW 2068

DA NO: DA-2014/510

JRPP: 2014SYE143

ATTACHMENTS:

- 1. Notification map**
- 2. Legal advice - shop- top housing**
- 3. Plans & Elevations (as amended)**

DATE: 8 JULY 2015

RECOMMENDATION: APPROVAL (DEFERRED COMMENCEMENT)

LOCATION: 150 MOWBRAY ROAD & 670-680 WILLOUGHBY ROAD, WILLOUGHBY NSW 2068

APPLICANT: CEEROSE P/L

OWNER: CC NOMINEES NO. 1 PTY LIMITED AND MR M KHAWAM AND MRS M KHAWAM

PROPOSAL: DEMOLITION AND CONSTRUCTION OF SHOP TOP HOUSING UNITS, CARPARKING, COMMERCIAL PREMISES, LANDSCAPING AND ASSOCIATED WORKS.

DATE OF LODGEMENT: 21-NOV-2014

REPORTING OFFICER: ANNIE LEUNG (DEVELOPMENT PLANNER)

RESPONSIBLE OFFICER: IAN ARNOTT (DEVELOPMENT PLANNING MANAGER)

Description of Proposal

Development Application 2014/510 seeks consent for the demolition of the existing buildings and structures and the construction of three commercial premises (102m², 556m² and 669m²) and 104 shop-top housing units.

The indicative use of the proposed commercial premises include a Bulky goods retail/showroom fronting Mowbray Road, a small retail space on Penshurst Street and a business premise on Willoughby Road.

The dwellings mix is proposed as follows:

Studio	1Bed	1B+	2B	2B+	3B
27	12	13	37	0	15

The proposed development comprises two buildings, identified as Building A and Building B on the submitted plans, which sits on top of two levels of basement car parking for 158 vehicles (including two loading bays). Building A is located near the corner of Penshurst Street and Mowbray Road, and Building B has frontage on Willoughby Road.

Vehicular access to the site will be provided from Penshurst Street, with pedestrian entries on Willoughby Road and Mowbray Road.

JRPP – Regional Development

The proposed development has a Capital Investment Value exceeding \$20 Million, and is identified to be a Regional Development in accordance with Schedule 4 of the Environmental Planning and Assessment Act. As such, the Joint Regional Planning Panel (Sydney East) is the consent authority for the application.

Clause 4.6 – Variation to Development standards

The application is accompanied by two requests to vary development standards, including the height of building standard and the Floor Space Ratio standard contained in the Willoughby Local Environmental Plan 2012 (WLEP) as outlined below:

Height Standard	Proposed
18m (150 Mowbray Rd & 680 Willoughby Road) & 11m (No 670 Willoughby Rd Only)	Up to 20.84m within the 18m height zone, and up to 17.59m within 11m height zone

Floor Space Ratio Standard	Proposed
1.7:1 (150 Mowbray Rd only) & 1.5:1 (Averaging at about 1.69:1)	2.01:1 (amended application)

The application is accompanied by written submissions pursuant to Clause 4.6 of the WLEP with respect to variations of development standards.

Neighbour Notification

The original application was notified in accordance with Part B of the WDCP. The notification attracted submissions from the following properties:

- 25 Penshurst Street, Willoughby
- 30 Penshurst Street, Willoughby
- Unit 7 / 597 Willoughby Road, Willoughby
- Unit 13 / 654 Willoughby Road, Willoughby
- 132 Mowbray Road Willoughby

The submissions raised general concerns over the density and height of the proposed development, and the resulting increased traffic and other impacts on local infrastructure. Submissions from No 25 Penshurst Street and Unit 7 / 597 Willoughby Road, Willoughby also raised concerns with external impacts of the proposed development to their property, including overshadowing.

Amended plans 25 March 2015

On 25 March 2015, Council received an amended application in response to issues of concern raised during preliminary assessment of the application. The amendments involve internal and external changes to the proposed development, including the reduction of the number of proposed shop top housing units from 110 to 104 units, and the addition of a commercial premise fronting Penshurst Street. The amended application was neighbour notified (9 April 2015 – 30 April 2015), which attracted submissions from the following properties:

- Unit 7 / 597 Willoughby Road, Willoughby
- Unit 8/ 597 Willoughby Road Willoughby
- 132 Mowbray Road Willoughby
- 25 Penshurst Street Willoughby

The issues raised in the submission are further discussed under the **Notification Issues** section of this report.

Existing Building and Site Context

Address/Property	Lot DP	Site area (m ²)
150 Mowbray Road Willoughby	LOT 10 DP 880509	2234
680 Willoughby Road Willoughby	LOT 11 DP 880509	2173
670 Willoughby Road Willoughby	LOT Y DP 405823	254.9
Total site area		4661.9m ²

The site is located at the northern end of the block bound by Mowbray Road, Penshurst Street, and Willoughby Road. It is part of an existing commercial precinct at the intersection of Penshurst Street and Mowbray Rd. This area includes a number of three storey properties that have been substantially developed particularly the properties comprising the subject development site at 680 Willoughby Rd and 150 Mowbray Rd, which have the effect of land-locking a group of two and three storey shops on the small allotments at the corner of Mowbray Rd and Willoughby Road, including 132 & 130A Mowbray Road, and 684 Willoughby Road. The site has a gradual fall of approximately 5m from its northern boundary to its southern boundary.

Uses of the existing premises at the site include furniture and bathroom showrooms, medical centre, dental surgery, café, etc. Most of these occupancies appear to have recently vacated. The locality is serviced by bus services to North Sydney, the City and Chatswood.

Further to the south of the site along Penshurst Street is low density residential properties zoned for medium density residential development, including the property immediately south of the site, at No 25 Penshurst Street. There is an existing right of carriage way over the subject site benefiting this property, at No 25 Penshurst Street.

Along Willoughby Road, there are currently a mix of medium density residential properties and commercial properties of up to three storeys. The property immediately south of the site at No 666 Willoughby Road is a two storey mixed use premise with a furniture showroom/specialist furniture retail, and residential uses at the rear.

To the north of the site, on the northern side of Mowbray Road, directly opposite the site, is Willoughby Girls High, which is a listed heritage item.



Figure 1 - Aerial Photo of the site and its surrounds

Controls and Classification	
Zoning	B5 – Business Development
Height	18m & 11m (No 670 W Rd Only)
FSR	1.7:1 (150 Mowbray Rd) & 1.5:1 (670 & 680 Willoughby Road)
Conservation area	No
Heritage Item	Opposite local heritage item on northern side of Mowbray Road (Willoughby Girls School)
Bushfire Prone Area	No
Flood related planning control	No
Applicable DCP	WDGP
Applicable SEPPs	SEPP65, SEPP Basix, SEPP 55, SEPP(I)

- i) **Developer's Contribution Plans:**
- S94A/s94: Yes. S94A**
 - Applicable rate (%): 1%**
 - The cost of development: \$28,346,552**
 - Date of accepted cost of development: 21 Nov 2015**
 - The total contribution payable (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$283,465**

Referrals

Building Services	Standard Conditions
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Engineering	Deferred Commencement Conditions (with outstanding stormwater design issues and detailed design of the proposed vehicular access being recommended as deferred commencement matters).
Landscape	<p>No objections to approval subject to conditions as recommended.</p> <p>The Arborist's report accompanying the application is noted. The report notes the presence of 3 <i>Syncarpia glomulifera</i> (Turpentine Trees) located on the adjoining property at No. 25 Penshurst St. It is noted that the new driveway to the basement is close to the trees, however it generally follows the alignment of the existing driveway accessing under the existing building. The conclusion of the Arborist that the impacts of the proposed development on the health and stability of the subject tree will not be unreasonably affected is concurred with.</p> <p>However, given the significance of the trees, a specific tree management plan has been conditioned to address management and protection of these and other trees on adjoining private property. The plan will also address protection of the trees in the road reserve along the Mowbray Rd frontage.</p> <p>The Landscape Plans indicate removal of 2 small street trees in poor condition on Willoughby Rd, to be replaced with 5 additional trees along the Willoughby Rd frontage. It is noted that Ausgrid comments recommend undergrounding of power along this section of the road for safety reasons. As the presence or absence of overhead wires has an impact on the species to be selected for planting, conditions have been included requiring nomination of species by contacting Council prior to issue of a construction certificate. By such time the issue of the location of power lines would be resolved.</p>
Environmental Health	Submitted acoustic report and preliminary site investigation report (regarding site contamination) are considered acceptable. Standard Conditions
Traffic	<p>Proposed development will increase traffic volumes on Penshurst Street between Mowbray Road and Penkivil Street. However traffic volumes will remain well within the environmental capacity for the street.</p> <p>There is a slight overall shortfall of 4 spaces in the car park, with a shortfall of 5 visitor spaces. This is considered acceptable, as the bulky goods retail and commercial spaces could be used by visitors outside of operating hours.</p> <p>A 2nd loading bay has been proposed in the amended application to the satisfaction of Council's traffic engineer.</p>
Roads & Maritime	S138 Roads Act Concurrence and SEPP (Infrastructure)

Services (RMS)	consultation. Recommended conditions and concurrence requirements received.
Urban Design (external consultants)	Recommends amendments to address urban design concerns, including streetscape and internal amenity. The amended proposal generally resolved the main issues of concern raised by Council's Urban Design consultant. Please refer to discussion under the relevant subheading, <u>SEPP 65</u> in this report.
Waste	The submitted waste management plans and information are considered comprehensive by Council's Waste coordinator. No objection is raised against the proposed development subject to standard conditions of consent.
Police (CPTED)	The application has been referred to the local Chatswood Police for comments. No objection has been received. Standard conditions relating to safer by design are recommended to be imposed.
Heritage Architect	Standard Conditions

Development Statistics

	Proposed	Standards	Complies
WLEP 2012			
Site Area	4661.9m ²	-	-
GFA	9361m ²	7875.4m ²	See Clause 4.6 considerations
FSR	2.01:1 (amended application)	1.7:1 (150 Mowbray Rd only) & 1.5:1 (Averaging at about 1.69:1)	
Height	Up to 20.84m within the 18m height zone, and up to 17.95m within the 11m height zone	18m (150 Mowbray Rd & 680 Willoughby Road) & 11m (No 670 Willoughby Rd Only)	See Clause 4.6 considerations
WDCP			
Part E – Shop top Housing			
Frontage	>30m on all street frontages	27m for bldg>11m	Yes
Density use and height	Due to the topography of the site, the street level of the proposed development is separated into a ground floor and lower ground floor. Commercial shop front occupies the primary street frontages of the site along Mowbray Road and Willoughby Road. A retail shop front has also been included in the amended proposal to activate the street	No more than 30% of the street frontage is to be used for vehicular and pedestrian access to lower and upper levels. A minimum of 60% gross floor space at street level is to be used for retail or business premises.	Yes

	frontage of the site on Penshurst Street.		
Design and Streetscape	The proposed development is generally considered to improve the existing streetscape by establishing a strong architectural identity together with appropriate street alignment, façade design and building mass.	Reinforce parapet height & street alignment Façade solid:void (60:40) Façade proportion	Yes
Setbacks (E1.4) <u>Front</u> LvG/1 st /2 nd / 3 rd & above (Mowbray) (Penshurst) (Willoughby)	 0/0/0/0-4m 0/0/0/0-6.2m 0/0/0/3.8 -6.4m	 0/0/2/6.2m	 No (non-compliance in parts)
<u>Side</u> G/ 1 st & 2 nd 3 rd & above (South – Bldg B – Willoughby Road) (North – Bldg B – Willoughby Road)	 4-9/3-9/3-9/9-12/12m 6m on all levels	 0m/50% @ 0m & 30°/4.2m	 Yes
<u>Rear</u> G/1 st /2 nd /3 rd /4 th (South –Bldg A) (West –Bldg B)	 8/8/8-13.3/>14/>15m 8/8/8/9/9/>10m (only roof garden/planter adj rear b'dy)	 3/9/10.2/13.2/14.4m	 No. (non-compliance in parts)
Landscaping	Landscaped setback, roof top garden and planter boxes have been provided where appropriate and practical. Noting the rear part of the site adjoining No 25 Penshurst Street is burdened by a right of way and a landscaped setback is not appropriate. The amended proposal demonstrates improvements to the overall landscape design of the site.	20% of podium as vegetated area & 20% of rooftop open space 3m wide rear landscape setback Planters facing R3 zone	Yes
Recreation Area	>70%	56% of site area	Yes
Private Open Space	Min 10 m ² & 2m wide	1 bedroom:10m ² 2 bedroom: 10m ² 3 bedroom: 15 m ² 2m width (min)	Yes

Communal Open Space	2 x Roof top gardens and additional ground floor/atrium courtyard >5m wide >3hours solar access (for roof top gardens)	830m ² min 5m wide 3 hours solar access	Yes
Part C – General Requirements			
Car parking	Retail (general) 1 Courier space 1 Van/delivery bay (not allocated)	<u>Retail</u> 1 / 25 m ² = 4	No (-2)
	33 x bulky goods/showroom car spaces (including 1 disabled)	<u>Bulky Goods</u> 6 / 100m ² public showroom = 33	Yes
	8 x business premises car spaces (including 1 disabled)	<u>Business Premise</u> 1/ 110m ² = 6	Yes (+2)
	91 - Residential car spaces (including 12 disabled)	<u>Shop top Housing</u> Studio-0.5 space 1 space/ other dwlg = 90	Yes (+1)
	22 x Visitors car spaces – (including 2 disabled)	Visitor spaces- 1/ 4 dwlgs = 26	No (- 4)
	Total = 156	Total = 159	No (-3)
	2 commercial, 2 Res Visitor, & 12 adaptable residential. Total: 16	Disabled car spaces 1/50 for commercial, 1 adaptable car space/4 adaptable units Total = 13	Yes
	2 x loading docks	Loading Bay	Yes
	11	Motorcycles 1/ 25 spaces =6	Yes
	34	Bicycles (rails/lockers) = (14/15)= 29	Yes
Waste	Separate bin storage facilities on	Part C.8	Yes

Management	ground floor and basement for the commercial and residential uses		
Adaptable Housing	>50%	50%	Yes

Notes:

- 1) **Height:** The distribution of the maximum height of building standard across the site is unusual. It appears that the 11m height standard applying to that part of the site, being No 670 Willoughby Road Willoughby is an anomaly. Those parts of the proposed development exceeding the 18m height standard are mostly related to minor structures above the roof of the proposed building, including lift shafts.
- 2) **Floor Space Ratio:** The amended proposal reduced the overall FSR of the development from 2.08:1 to 2.01:1.
- 3) **Setbacks:** The subject site has three main street frontages and an irregular shape. The proposed development does not have distinctive front, rear and side setbacks.
- 4) **Recreation space:** The amended proposal incorporates additional communal open space on roof top areas of the proposed buildings to increase the overall recreation space for the future occupants of the proposed shop top units. The proposed roof top gardens will also receive good solar access.
- 5) **Car parking:** The amended proposal maintains the overall number of car parking spaces as the application as originally submitted. However, due to the reduction of the proposed number of shop top housing units, the shortfall of residential car spaces has been significantly reduced on a relative basis.

Matters for Consideration Under S.79C EP&A Act **Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	An amended SEPP 65 together with a draft Apartment Design Guide was publicly exhibited from 22 September to 31 October 2014. Please refer to the Assessment section under the relevant subheading.	
	Council exhibited Draft Amendments to WLEP 2012 (exhibited 13 May to 10 June 2015). The amendments are mostly housekeeping matters, and do not directly affect the assessment of the proposed development.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	✓

Matters for Consideration Under S.79C EP&A Act
Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<ul style="list-style-type: none"> • Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> • Context & setting 	✓
	<ul style="list-style-type: none"> • Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> • Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> • Public domain 	✓
	<ul style="list-style-type: none"> • Utilities 	✓
	<ul style="list-style-type: none"> • Heritage 	✓
	<ul style="list-style-type: none"> • Privacy 	✓
	<ul style="list-style-type: none"> • Views 	✓
	<ul style="list-style-type: none"> • Solar Access 	✓
	<ul style="list-style-type: none"> • Water and draining 	✓
	<ul style="list-style-type: none"> • Soils 	✓
	<ul style="list-style-type: none"> • Air & microclimate 	✓
	<ul style="list-style-type: none"> • Flora & fauna 	✓
	<ul style="list-style-type: none"> • Waste 	✓
	<ul style="list-style-type: none"> • Energy 	✓
	<ul style="list-style-type: none"> • Noise & vibration 	✓
	<ul style="list-style-type: none"> • Natural hazards 	✓
	<ul style="list-style-type: none"> • Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> • Social impact in the locality 	✓
	<ul style="list-style-type: none"> • Economic impact in the locality 	✓
	<ul style="list-style-type: none"> • Site design and internal design 	✓
	<ul style="list-style-type: none"> • Construction 	✓
	<ul style="list-style-type: none"> • Cumulative impacts 	✓
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	✓
	<ul style="list-style-type: none"> • Submissions from public authorities 	✓
	<p>Comment:</p> <p>Ausgrid has made a submission in response to the notification of the application. The submission raised no objection to the development subject to undergrounding of cables of the proposed development.</p> <p>Please refer to discussions under neighbour notification issues section of this report with respect to public submissions.</p>	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	✓

ASSESSMENT

Willoughby Local Environmental Plan 2012

B5 – Business Development

The subject land is zoned B5 – Business Development. Commercial premises and shop-top housing are permissible in the B5 Business Development zone. The proposed mixed use development comprising retail and business premises will assist to revitalise the existing commercial area and will also provide additional residential accommodation at an accessible location is not inconsistent with the objectives of the B5 zone.

During preliminary assessment, the assessing officer was concerned that the application as originally submitted, incorporated a large number of residential units (proposed as shop top housing) being located on a lower ground floor level, above the proposed car parking levels, and other residential units proposed above the commercial premise proposed in Building B (facing Willoughby Road) which was identified as an office premise rather than a retail/business premise do not satisfy the definition of Shop Top Housing. This puts into question whether all of the proposed residential units are “shop top housing”, and are in fact, permissible in the B5 – Business Development Zone, where “residential accommodation” including “residential flat building” is not permissible.

Shop top housing means one or more dwellings located above ground floor retail premises or business premises.

In response, the applicant has amended the proposed development to include a business/retail premise fronting Penshurst Street and clarifying that the proposed office premise fronting Willoughby Road will be a business premise. The amendments are aimed to ensure all of the proposed residential units are located at a level/floor above a retail or business premise even if they are not all physically located directly above. The amended application is also accompanied by a legal opinion obtained by the applicant explaining how the amended proposal is consistent with the shop-top housing definition, including the consideration of recent court judgements on this issue. This is provided as **Attachment 2** to this Report.

Development Standards in WLEP 2012

A written request to vary the development standards pursuant to Clause 4.6 has been received with the application requesting variation to the development standards contained in Clause 4.3(2) – Height of Building and Clause 4.4 – Floor Space Ratio of WLEP 2012. These variations are considered to be well founded given they do not hinder the ability of the proposed development to meet the objectives of the standards and the objectives of the zone, and there are sufficient environmental planning reasons as further discussed below.

Height – 11m & 18m (Clause 4.3(2))

Extent of variation

There are two height standards applying to the development site. A maximum 18m height of building control applies to the majority of the development site, but the property at No 670 Willoughby Road has a lower height control of 11m. Please refer to an excerpt from the WLEP 2012 – Height of Building Map below.



Figure 2 - Height of Building Map WLEP 2012

The height of the proposed development is at a maximum of 20.84m within the 18m height zone (15.7%), and up to 18m within 11m height zone (63.6%). The non-complying components are mostly part of the proposed Building B fronting Willoughby Road. The area and extent of non-compliance with the height of building standard have also been illustrated on the submitted elevation and section drawings, and diagrams contained in the submitted Clause 4.6 variation requests.

Applicant's reasons in support of the variation

Clause 4.6 Exceptions to development standards of WLEP 2012 Subclause (3) reads:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant addressed in writing with respect to above a) and argued that (quoted in *italics* below):

Strict compliance with the standard is both unreasonable and unnecessary. The proposal breaches the 11 metre height limit for the portion of the site that occupies No. 670 Willoughby Road by a maximum of 6.59 metres. The

11 metre height limit for this portion of the site reflects the current isolated development that occupies No. 670 Willoughby Road, and not the intent or opportunity for redevelopment of the consolidated site. It is noted this site is bound on 3 sides by an 18 metre height limit, meaning that strict compliance with the height limit in this instance would create an incongruity in the building form that would not have any positive urban design outcome. It is further noted that the proposal is wholly compliant with Council's side and rear setback controls, making strict compliance with the 11 metre height limit unnecessary to achieve Councils prescribed built form controls.

The 2.84 metre breach of the 18 metre height limit at the top of the parapet wall at the north-western corner of Building B is a result of the irregular height plane that is applicable to the site, owing to excavation associated with existing site improvements. **Figures 3 & 4** on the previous pages illustrate the level of excavation associated with the existing building where proposed Building B is to be sited. The basement levels illustrated are properly defined as 'ground level (existing)', despite clearly being excavated levels. The ground level (existing) is reflected in the building height plane illustrated by the architect in the SketchUp model extracts presented at **Figures 1 & 2**. The highly modulated building form that would result from strict adherence to the height of building standard per the LEP definition is not therefore considered to be reasonable in these circumstances.

Where the proposal exceeds the 18 metre height standard, the effect on the overall bulk and scale of the building is negligible. The breach of building height (excepting the lift overrun) can be attributed to the building height definition and the irregular site topography resulting from previous landform modification, rather than from any building element that would offend the objectives of the zone or the development standard. Further, the minimal exceedances of the 18 metre height limit will not contribute to excess bulk when viewed from any public place. Strict application of the standard is therefore considered unnecessary in the circumstances.

Figure 1, & 2 contained in the submitted Clause 4.6 request seeking variation to the height standard is included below.

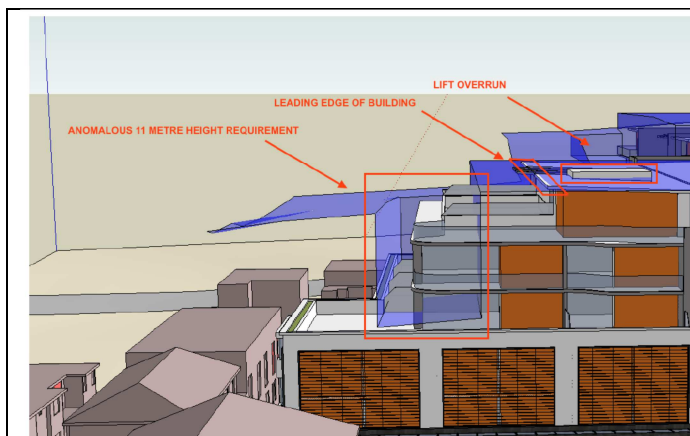


Figure 1: Illustration of points where the 11 and 18 metre height limits are exceeded (extract from SketchUp model).

Figure 1 (Clause 4.6 Height of Building)



Figure 2: Illustration of points where the 18 metre height limits is exceeded (extract from SketchUp model).

Figure 2 (Clause 4.6 Height of Building)

And with respect to above b) that:

The proposal clearly meets the intent of the development standard, being sited largely within the projected 18 metre height plane, and provides an appropriate urban design response to the street, stepping down the built form to the lower density

residential development to the south. Where contraventions of the development standard occur, they are the result of the determination of 'existing' ground level, and do not result in any physical impacts upon adjoining neighbours or any unanticipated or detrimental impacts on the appearance of the development from the public domain.

Note that the submitted Clause 4.6 document has also provided a detailed address of the objectives of the standard and objectives of the zone. Please refer to **Annexure XXI** of the submitted Statement of Environmental Effects.

Objectives of the standard

(a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,

Comments: The proposed development is not dissimilar to the scale and siting of the existing commercial buildings on the site, but it will provide a much better response to the commercial streetscape along all frontages of the site, as well as the relationship with adjoining and surrounding properties.

The existing commercial buildings at 150 Mowbray Road and 680 Willoughby Road are three storey in height, but have limited building articulations from the street and their inconsistent building alignment do not relate well with the conventional shopping strip character of the adjoining and surrounding commercial properties at the locality.

The proposed development will provides a three storey street wall along its street frontages with the additional two upper levels setback away from this three storey base. Those parts of the proposed development that exceed the height standard do not change the overall scale of the proposed development.

(b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,

Comments: The siting of the proposed development is generally suitable in its response to boundary conditions with adjoining developments. The proposed buildings take account of the spatial separation between the existing commercial buildings at the site relative to adjoining properties, and seek to generally maintain that separation in addition to improved landscaping between the properties.

The proposed development is considered to have acceptable external impacts in terms of disruption of views, loss of privacy, overshadowing or visual intrusion. Specific concerns with respect to loss of solar access raised in the submissions received from No 597 Willoughby Road (opposite the site) and 654 Willoughby Road (two properties away from the southern boundary of No 680 Willoughby Road are further discussed under the Notification Issues section of this report.

(c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,

Comments: The proposed development generally provides a more cohesive streetscape presentation with architectural elements and built forms that are proportional and more compatible with the conventional shopping strip character of the adjoining and surrounding commercial properties at the locality.

- (d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*

Comments: The site is at the high point at the location, based on the development standards applicable to the land and surrounding developments, there are no adjoining properties that can reasonably obtain valuable views over the site.

- (e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*

Comments: The proposed development is also seeking a variation from the FSR standard contained in the WLEP. This is further discussed under the relevant heading.

- (f) to use maximum height limits to assist in responding to the current and desired future character of the locality,*

Comments: As illustrated in *Figure 2 - Height of Building Map WLEP 2012* above, the distribution of the maximum height of building standard at the locality is inconsistent, and does not dictate a consistent response to the current and desired future character of the locality.

- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*

Comments: N/A.

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

Comments: The proposed development is considered to provide reasonable setbacks and transition of building heights from its commercial front along Mowbray Road and Willoughby Road to the medium density residential zone to the rear and to the south of the site.

Objectives of the zone

- To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- To accommodate businesses, provided that their access needs and the traffic generated does not interfere with the safety and efficiency of the road network.*

Comments: The proposed mixed use development is not inconsistent with the objectives of the B5 Business Development Zone. It will revitalise the existing commercial strip with better designed commercial floor spaces, as well as providing residential housing at an accessible location.

Recommendations on Clause 4.3 Height of Building Variation

The applicant's reasons for variation to the Height of Building standard are generally supported by the assessing officer. It is considered sufficient environmental planning grounds exist to vary the *Height of building* development standard, as described below:

- a. The proposed development, despite its numerical variation to the height standard will be compatible with the desired future character of the locality in terms of:
 - i. The proposed buildings provide suitable modulation of building height and setbacks to transit from the commercial zone with frontage on Mowbray Road and Willoughby Road to the medium density residential zone adjoining the rear boundaries of the site.
 - ii. The proposed massing and architectural elements of the proposed building respond well to its development context.
- b. The extent of variation to the height standard is minor where a maximum height standard of 18m is applicable to the site. The non-complying components of the proposed buildings with the 18m height standard are generally limited to the proposed lift shafts and roof extensions, which do not materially change the scale of the development or its external impacts.
- c. The 11m height standard applying to that part of the site, being No 670 Willoughby Road Willoughby is considered an anomaly. Despite having the same Floor Space Ratio standard representing the development potential of the land, the applicable height control differs between 680 Willoughby Road (18m) and 670 Willoughby Road (11m). Based on the site area and dimensions of the property at No 670 Willoughby Road, and its relationship with the property at No 680 Willoughby Road, strict compliance with the maximum 11m height standard applying to No 670 will not achieve an acceptable built form or development outcomes that are compatible with the streetscape nor will it achieve a suitable transition of building height along Willoughby Road.

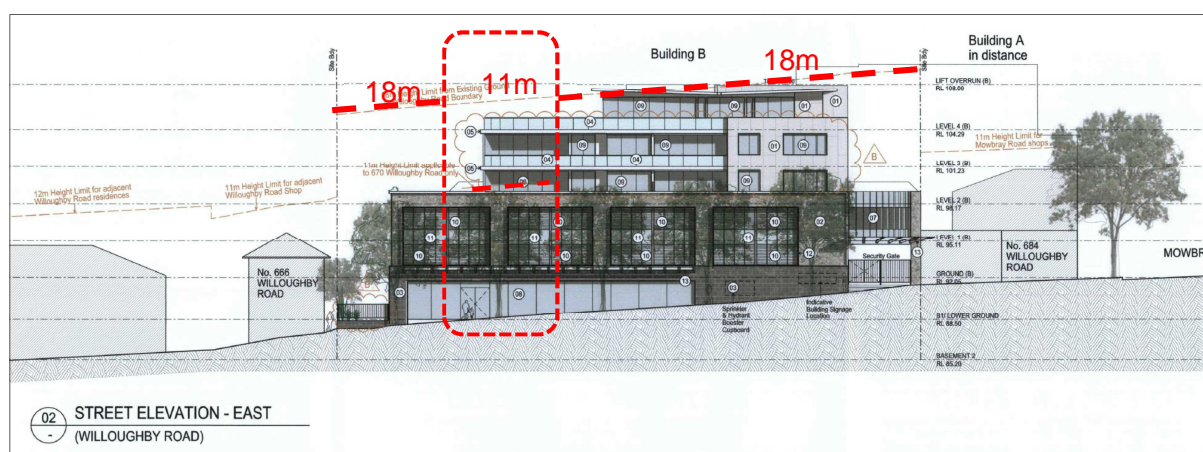


Figure 3 - Excerpt of submitted drawing A.150 C (red dotted line identifying the irregular reduction in the height standard applying across that part of the site's frontage along Willoughby Road at No 670)

Approval of the proposed development will be consistent with the objectives of the *Height of building* standard and the specific objectives for developments within the B5 zone, and therefore, is considered to be in the public interest.

Floor Space Ratio (Clause 4.4)

Extent of variation

The proposed development as amended has a floor space ratio of 2.01:1, representing a floor area of 9361m². This exceeds the maximum Floor Space Ratio development standard of 1.7:1 (150 Mowbray Road) and 1.5:1 (680 & 670 Willoughby Road) (averaging approximately 1.69:1), representing 7875.4m² by approximately 19%.

Applicant's reasons in support of the variation

Clause 4.6 Exceptions to development standards of WLEP 2012 Subclause (3) reads:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant addressed in writing both points above and argued that:

Strict compliance with the development standard is unnecessary to achieve the objectives of the LEP, the B5 Business Development Zone, or the development standard itself. The subject site is a local anomaly, being a large consolidated land holding with 3 street frontages, being the only site within a 750 metre radius to have a building height control that exceeds 14 metres.

The proposal respects the environmental capacity of the site, particularly through compliance with the built form envelope, including side and rear boundary setbacks, through consistency with the nominal 18 metre height plane projected from the site boundaries, and through a considered architectural response to the site topography which steps the building massing down towards the more sensitive lower density residential development to the south of the site.

Strict compliance with the standard in this instance would reduce housing availability and choice in close proximity to transport and available services within the Willoughby centre. The proposal will contribute to the desired future character of the locality by promoting high quality architecture as a precedent for future development in the Willoughby centre.

And that:

The proposal meets with the intent of prescribed development controls, and the proposed building form has been developed as a considered response to the opportunities provided by a landmark development site, whilst giving adequate consideration to impacts on existing properties and the broader community.

Note that the submitted Clause 4.6 document has also provided a detailed address of the objectives of the standard and objectives of the zone. (Please refer to **Annexure XXII** of the submitted Statement of Environmental Effects)

Objectives of the standard

- (a) to limit the intensity of development to which the controls apply so that it will be carried out in accordance with the environmental capacity of the land and the zone objectives for the land,*

Comments: The proposed development and its density are not considered to cause an exceedance of the environmental capacity of the site. However, during preliminary assessment it was noted that the density of the development as originally proposed in the application at 2.08:1 (including 110 shop top housing units) is likely to adversely affect the internal amenity of the proposed dwellings due to reduced daylight access and privacy conflicts. In response, the applicant has amended the proposal and reduced the overall FSR of the proposed development as well as the number of shop-top housing units to 2.01:1 and 104 units respectively.

Additional information has also been submitted with the amended application to demonstrate that the internal amenity of the proposed dwellings, site planning and the external impacts of the proposed development is not unduly compromised by the proposed density as amended, and the proposed development can achieve an acceptable level of site and internal amenity as required by SEPP 65. The amended application generally resolved site planning and internal amenity issues raised during preliminary assessment of the application. Please also refer to further discussion under the subheading SEPP 65 of this report.

- (b) to limit traffic generation as a result of that development,*

Comments: The traffic generation as a result of the development is considered acceptable by Council's Traffic Engineers and the Roads and Maritime Services even at the FSR of 2.08:1 as originally proposed, which has since been reduced to 2:01:1.

- (c) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*

Comments: The proposed development is considered to have acceptable external impacts in terms of disruption of views, loss of privacy, overshadowing or visual intrusion. Whilst some parts of the proposed building do not strictly comply with the required setback, the design of the proposed building generally responds well to its relationship with adjoining developments and in establishing an appropriate streetscape character. Please also refer to discussion under the relevant subheading WDCP – Setbacks in this report.

- (d) to manage the bulk and scale of that development to suit the land use purpose and objectives of the zone,*

Comments: The bulk and scale of the proposed development is not considered incompatible with adjoining and surrounding developments, noting that the FSR standard is not homogenous at this locality or evenly applied to land within the site. The site is also located at a gateway location where a strong architectural response and higher building scale is considered appropriate.

The proposed development, despite being higher in density than the existing developments at the site, is considered to be a better architectural response to the existing streetscape, and presents a more vibrant and visually appealing building appearance and architectural character than the existing commercial buildings at the site.

- (e) to permit higher density development at transport nodal points,*

Comments: The site is well serviced by a high number of bus services to employment centres, including Sydney CBD, North Sydney and Chatswood.

- (f) to allow growth for a mix of retail, business and commercial purposes consistent with Chatswood's sub-regional retail and business service, employment, entertainment and cultural roles while conserving the compactness of the city centre of Chatswood,*

Comments: N/A

- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*

Comments: N/A

- (h) to provide functional and accessible open spaces with good sunlight access during key usage times and provide for passive and active enjoyment by workers, residents and visitors to the city centre of Chatswood,*

Comments: N/A

- (k) to achieve transitions in building scale and density from the higher intensity business and retail centres to surrounding residential areas,*

Comments: The proposed development provides reasonable setbacks and transition of building scale from its main commercial frontages along Mowbray Road and Willoughby Road to the medium density residential zone adjoining the rear of the site.

- (j) to encourage the consolidation of certain land for redevelopment,*

Comments: The proposed development involves consolidation of three existing allotments, including the small/narrow allotment at No 670 Willoughby Road. However, there are considerations on whether the proposed development will isolate the smaller allotments at the corner of Mowbray Road and Willoughby Road, namely 132, 130A and No 684 Willoughby Road. Table 5 of the submitted Statement of Environmental Effects, outlines the outcomes of discussions between the applicant and the owners of adjoining properties including but not limited to the owners of 132, 130A and No 684 Willoughby Road in response to the developer's proposal to consolidate and redevelop jointly. (See information below as extracted from Table 5 of the submitted Statement of Environmental Effects)

Site	Owner	Outcome
666/666A Willoughby Road	R. Hall	No response to offer to treaty for the sale of this property. Ceerose advised owner has consulted development professionals with a view to vertically extending the property for the purposes of creating a granny flat. Owner has been consulted with regards to plans for redevelopment and has had input into landscaping along common boundary.
670 Willoughby Road	M. & M. Khwam	Accepted an offer for the purchase of their land and this site will, subject to approval of the proposed development, be consolidated with No. 150 Mowbray Road and No. 680 Willoughby Road.

684 Willoughby Road	Approach made via Strata Manager	No response received from owners corporation following numerous attempts through strata manager to discuss the potential acquisition of this site.
128A Mowbray Road	Approach made via Strata Manager	Email and written correspondence sent on various dates in June, July and September (Lot 2 SP 84021). Various contacts with strata manager throughout this time. No response received.
128B Mowbray Road	Humeson Pty Ltd	Emails sent through strata management, no formal response from owners received. Advised verbally that happy to entertain prospect of sale, recognising however that they are only 60.9% owners of SP 84021.
128C Mowbray Road	AMPOL Pty Ltd	Emails sent through strata management, no formal response from owners received. Advised verbally that happy to entertain prospect of sale, recognising however that they are only 60.9% owners of SP 84021. Same directors as Humeson Pty Ltd.
130 and 130A Mowbray Road	A. Yaloui	Advised property available for purchase.
132 Mowbray Road	L. Ma and J. Woo	Verbal and email correspondence with owners. Not interested in selling under any circumstances.
25 Penshurst Street	C. Ryan	Owner consulted on various aspects of the proposal and has had input into landscaping and components of the proposal relating to formalisation of a future Right of Way. Owner advised he is willing to sell property, however, advised by Ceerose that this property had no strategic advantage as it is located within a different land use zone.

It appears that the consolidation of these properties is unlikely to occur at this stage due to fragmented ownerships, particularly with respect to No 684 Willoughby Road which is a strata property with multiple owners.

In this regard, the applicant has submitted conceptual drawings that future redevelopment can potentially occur at No 132, 130A Mowbray Road, and No 684 Willoughby Road subject to the establishment of shared vehicular access via the site. A possible basement extension to these properties for vehicular access has been identified on the submitted plan. However, due to the unusual circumstances of the site, it is recommended that a formal right of way should be imposed on the site should the development be given consent by the JRPP. Such recommendation has been communicated to the applicant during assessment of the application, who has formally indicated that no objection is made to the establishment of a right of way for such purpose together with suggested terms for such right of way. (Please see recommended **Condition 74**)

(k) to encourage the provision of community facilities and affordable housing and the conservation of heritage items by permitting additional gross floor area for these land uses.

Comments: N/A. Subject land is not affected by heritage item nor involves any affordable housing requirement.

Objectives of the zone

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To accommodate businesses, provided that their access needs and the traffic generated does not interfere with the safety and efficiency of the road network.*

Comments: The proposed mixed use development is not inconsistent with the objectives of the B5 Business Development Zone. It will revitalise the existing commercial strip with better designed commercial floor spaces, as well as providing residential housing at an accessible location.

Recommendations on Clause 4.4A FSR Variation

The applicant's reasons for variation to the Floor Space Ratio standard are generally supported by the assessing officer. It is also considered that sufficient environmental planning grounds exist to vary the *Floor Space Ratio* development standard, as described below:

- a. The density of the proposed development is not incompatible with adjoining and surrounding development having properly considered the site's circumstances, and the character of the locality.
- b. The massing and architectural elements of the proposed buildings respond well to the site's development context, and are likely to establish a more vibrant and visually interesting streetscape for the locality. The visual bulk and scale of the proposed development are considered suitable for the gateway location of the site.
- c. The gross floor area of the proposed development includes 392m² of "winter garden", which would ordinarily be provided as balconies and be excluded from the calculation of FSR. However, the provision of private open spaces for those lower floor units in the form of winter gardens is considered necessary given the heavy traffic conditions along Mowbray Road and Willoughby Road. This has exaggerated the development's numerical breach of the FSR standard from 13% to 19%.
- d. The proposed numerical non-compliance does not hinder the development from meeting the objectives of the standard with respect to controlling the developments impacts such as traffic generation, or external impacts such as overshadowing.
- e. The amended proposal generally demonstrates that the density of the proposed development will not unduly compromise the level of internal amenity to the proposed shop-top housing units pursuant to the criteria set out in SEPP 65.

Approval of the proposed development will be consistent with the objectives of the *Floor Space Ratio* standard and the specific objectives for developments within the B5 zone, and therefore, is considered to be in the public interest.

Heritage Conservation (Clause 5.10)

The subject site is not a heritage item nor located within a heritage conservation area, but is located within the vicinity of a number of heritage items, including Willoughby Girls High School located directly opposite the site, which is a local heritage item identified by the WLEP. The submitted application is accompanied by a Heritage Impact Statement which describes the likely impacts of the proposed development on the heritage item, Willoughby Girls High School.

The Willoughby Girls High School building (built 1934) is locally significant as a grand school building which is a significant part of the Mowbray Road streetscape. It has social significance for all the girls who attended the school and the local community which has contributed financially to additional facilities. Historically, it is representative of a period of rapid growth for the area. It is a 3 storey brick institutional building with a symmetrical composition of gently distorted classical components set back from the street and heavily screened by vegetation along Mowbray Road.

Council's Heritage Architect has reviewed the submitted Heritage Impact Statement and the submitted application, and concluded that the scale, form and setbacks, and materials of the new development are not considered to adversely impact on the view to and from the heritage item.

SEPP 65 (Design Quality of Residential flat development)

The shop top housing component of the proposed development is a 'residential flat building' as defined by Clause 3 of SEPP 65, and is required to meet the Design Quality Principles and the Residential Flat Design Code (RFDC) of the SEPP. The proposed development is designed by a qualified designer and a Design Verification Statement by a registered architect has been submitted as required by the SEPP.

Council has engaged an external Urban Design consultant to carry out an independent assessment of the application in its original form against the requirements of SEPP 65.

The urban design consultant generally supports the height and scale of the proposed development as originally submitted, but recommended further changes be made to the proposed building façades to improve their response to the streetscape and the development context, including the visual delineation of the podium and upper level components, the presentation of the proposed corner element at the intersection of Mowbray Road and Penshurst Street, and other streetscape elements including awnings. The urban design consultant also raised concerns with respect to the internal amenity of the proposed shop top housing units in term of building separation, solar access and privacy. These issues of concern have been discussed with the applicant during preliminary assessment.

The amended proposal received by Council on 25 March 2015 is considered to generally resolve urban design issues raised in Council's letter to the applicant dated 23 Jan 2015, including but not limited to improvements to the building appearance of the proposed development and the internal amenity of the proposed shop top housing units.

Streetscape

The setback of upper levels of the proposed development has increased from all respective street boundaries of the site, ensuring the upper levels of the proposed buildings are visually recessive and do not present unreasonable visual bulk as viewed from the existing streetscape. It also provides greater distinction between the podium levels of the proposed buildings and the upper levels to visually delineate the "base" of the buildings from their

“top”. This is to ensure the scale and proportion of the proposed buildings relate to the streetscape and the urban context of the site. The podium base of the proposed development is considered to provide an appropriate street edge to the existing commercial zone.

The corner element of the proposed development has also been changed in the amended proposal to provide a more cohesive architectural treatment to the tower element of Building A, which reinforces its visual address of the gateway location at the intersection of Penshurst Street and Mowbray Road.

A small commercial premises fronting Penshurst Street has also been added in the amended proposal to ensure the proposed development will provide active street frontages without adversely affecting the amenity of the residential properties to the south of the site along Penshurst Street.

Site Planning & Internal Amenity

The proposed development comprises Building A and Building B, each with an atrium / internal courtyards to provide light and ventilation to proposed residential units. The application notes that the proposed layout is designed to optimise the number of units with a northerly aspect, and cross ventilation. However, the internal courtyards of the buildings as proposed in the original application do not strictly comply with the recommended separation distance of the Residential Flat Design Code, and the amenity of some of the proposed units are poor due to reduced daylight access, and privacy conflicts. Internal amenity issues are also apparent for a large number of units within Building B as originally proposed, where the proposed internal courtyards actually reduce in size as the building increases in height.

The amended proposal has also addressed this issue of concern by increasing the overall size of the atrium courtyard of Building B and the general layout of the circulation spaces and units around this atrium. This increased separation between the proposed shop top housing units together with alternative design and mitigating measures including different window design, and off-setting of windows have been incorporated in the amended proposal where appropriate to improve the amenity of the units facing the atrium/internal courtyards.

The amended proposal is also accompanied by an amended analysis of solar access and natural ventilation of the proposed development demonstrating that:

- 75 apartments (72.1%) will be provided with 2 hours or more of effective sun access to living areas between 9am and 3pm on June 21.
- 91 apartments (87.5%) achieve simple cross ventilation by openings to opposite or adjacent facades, or by way of suitably designed openings to the open gallery access within the open courtyards.

The issues of concern relating to internal amenity of the proposed shop top housing units are also considered interrelated to the density and the number of units proposed. In response, the applicant has amended the proposal and reduced the overall FSR of the proposed development as well as the number of shop-top housing units from 110 units to 104 units.

The amended proposal also seeks to address issues of concern raised in respect to the design of circulation spaces and interface between the proposed shop top housing units and the communal and circulation spaces between the proposed buildings. These are generally addressed through amendments to the proposed landscaping and open space design, and also refinements of the layout of communal open spaces and entries to individual shop top housing units.

(Draft) SEPP 65 & Apartment Design Guidelines

An amended SEPP 65 together with a draft Apartment Design Guide was publicly exhibited from 22 September to 31 October 2014. These have since been adopted and will come into effect (commence) on 17 July 2015. Whilst the amended SEPP 65 and the Apartment Design Guide do not apply to development applications and applications to modify development consents that have been made but not finally determined before 19 June 2015, the amended SEPP 65 (and the ADG) is a relevant consideration pursuant to s79C(a)(ii) as an exhibited draft SEPP.

The consideration of the proposed development with respect to the key amendments to the SEPP and the ADG are outlined below:

Apartment size

In order to help housing affordability, the ADG recommends smaller apartment sizes than the previous RFDC to minimum 35m² for studio units. The proposed shop top housing units meets the requirements contained in RFDC and therefore also the ADG.

Car parking

The ADG establishes benchmarks for reduced car parking at accessible location. It is noted that the site is located at a very accessible location with easy access to shops and other amenities as well as public transport. The application as amended on 25 March 2015 has a minor shortfall of 3 car spaces in total and is considered acceptable and consistent with the intent of the ADG. Please refer to further discussions under the relevant subheading Car parking in this report.

Solar and daylight access & Natural ventilation

The ADG and the amended SEPP 65 specifies that living rooms and private open spaces of at least 70 per cent of apartments must receive a minimum of two hours direct sunlight between 9am and 3pm during mid-winter in these areas and the requirement for 60 per cent of apartments are to achieve adequate cross-ventilation consistent with the current requirement contained in the RFDC. The subject analysis of solar access and natural ventilation demonstrates compliance in these areas.

The amended SEPP 65 also sets out criteria with respect to (a) visual privacy, (b) solar and daylight access, (c) common circulation and spaces, (d) apartment size and layout, (e) ceiling heights, (f) private open space and balconies, (g) natural ventilation, (h) storage. If a development control plan contains provisions that specify requirements, standards or controls in relation to a matter to which this clause applies, those provisions are of no effect.

SEPP (infrastructure)

Traffic

The development is identified on Schedule 3 of SEPP (Infrastructure) as "Traffic generating development" being a development that includes an area used exclusively for parking for 50 or more motor vehicles and that the proposed vehicular access from Penshurst Street, which is located within 90m of connection to a classified state road, Mowbray Road (as measured along alignment of connecting road). The proposed development will provide 156 car parking spaces and two loading docks. The application has been referred to the Roads and Maritime Services for assessment in accordance with the requirements of SEPP (I) – traffic generating development. Roads and Maritime Services (RMS) has no concern with the impacts of the proposed development on the classified road, Mowbray Road and surrounding regional road network subject to recommended conditions of consent.

Specific traffic concerns raised by correspondents/public submissions are discussed under the Notification Issues section of the application.

Road noise

The development is subject to the requirements of Clause 102 of SEPP (Infrastructure), which deals with impact of road noise or vibration on non-road development, especially residential developments. This application is accompanied by an acoustic report to demonstrate that the proposed building will generally meet the following criteria:

- (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Council's Environmental Health Officer has also reviewed the submitted application including the acoustic report, and is satisfied that the proposed development will be able to meet the criteria of the SEPP subject to recommended conditions of consent.

SEPP 55 (Remediation of land)

The site is currently occupied by commercial uses, and is not identified or known to be contaminated from previous land uses.

Willoughby Development Control Plan

General Development Guidelines - Part C

Part C of Willoughby DCP contains the general guidelines for developments.

Car Parking (C.4)

As noted in the Development Statistic table in this report, the proposed development has a total shortfall of 3 car parking spaces, but also some inconsistencies in the allocation of car parking spaces with respect to the WDCP requirements. The shortfall and allocation of car parking spaces as proposed is considered acceptable for the reasons below:

- The proposed shortfall in residential visitor car spaces is considered minor. Due to the mixed use nature of the proposed development, car spaces allocated to other businesses within the proposed development including bulky goods, retail and business premises could be used by visitors outside of operating hours as recommended by Council's Traffic Engineers. The proposed number of residential visitor car spaces is also consistent with the recommended rate of 1/5 units by the RTA Guidelines to Traffic Generating Developments.
- The proposed retail space with frontage on Penshurst Street has no allocated car space. This is considered acceptable given the small size of the premise, and there being two car spaces allocated for general delivery and courier purposes within the development in addition to two loading docks.
- The allocation of car spaces is restricted by the layout of driveways and circulation spaces between the two basement levels, and the need to group and to separate the car parking spaces allocated to residential and commercial components of the development to enable effective management and for security and access control. In this regard, no change to the proposed allocation of car spaces is recommended as the proposed layout is considered to be acceptable, and meeting the demand of the

proposed development despite minor inconsistencies with the requirements contained in the WDCP.

Loading and services facilities (C.4)

The amended proposal provide a second loading dock catering for small rigid vehicles in addition to a large loading dock that can accommodate medium rigid vehicles. As stated above, two car spaces have also been allocated for general delivery and courier purposes. These provisions are considered to be adequate for the proposed development.

Access, Mobility and Adaptability (C.6)

Access/mobility: The application is also supported by the submitted "Statement of Compliance Access for People with a Disability" in relation to the proposed buildings and the proposed adaptable units.

Adaptable housing: The proposed development includes 57 adaptable units (of 104units), and satisfies the requirement of this part of the DCP being the provision of 50% of the total number of units as adaptable. The nominated adaptable units are supported by adaptable floor plans. It is noted that the number of adaptable car spaces is provided at a rate of 1/4 adaptable units on the basis of the minimum number of adaptable units required by this part of the WDCP, that is 52 units rather than the 57 units proposed. There is a minor shortfall of one adaptable car space. However, this is considered to be compensated by the provision of two disabled residential visitor car spaces, which are not required by the WDCP.

Safer by Design (C.11)

The application has been considered against the relevant CPTED principles. During preliminary assessment, the applicant has been requested to improve the layout of circulation spaces, and service spaces between the proposed buildings, and within Building B. In particularly areas where there is poor passive surveillance and opportunities for concealment.

Whilst the amended proposal does not eliminate all opportunities of concealment within the circulation spaces, it substantially reduced the length of the circulation spaces within Building B and presents an improvement in the layout and design of the proposed communal spaces with respect to territorial reinforcement and space management, especially where the proposed communal open spaces have direct interface with private spaces of the proposed residential units.

The amended layout of the proposed ground floor is generally acceptable with regard to Safer by Design principles subject to a recommended standard condition of consent. **(Condition 75)**

Waste Management (C.8)

The proposed development provides separate waste storage rooms for the residential and the commercial tenancies. The commercial waste storage area is located adjacent to the proposed loading dock for easy access. Council's Waste Coordinator is satisfied with the proposed design and waste collection arrangement.

Specific Controls for Shop top housing – Part E

The proposal has been assessed in respect to the relevant provisions of Part E of Willoughby DCP, which contains the specific controls for mixed use development.

Building Depth and Setbacks (E1.4, E1.5 & E4)

Building A is considered as a corner site/ building at a gateway location at the intersection of Mowbray Road and Penshurst Street, and Building B has its primary frontage on Willoughby Road and backs onto the rear of residential zoned land. The application of setback requirements contained in the WDCP for the proposed buildings as nominated in the Development Statistic is illustrated below.

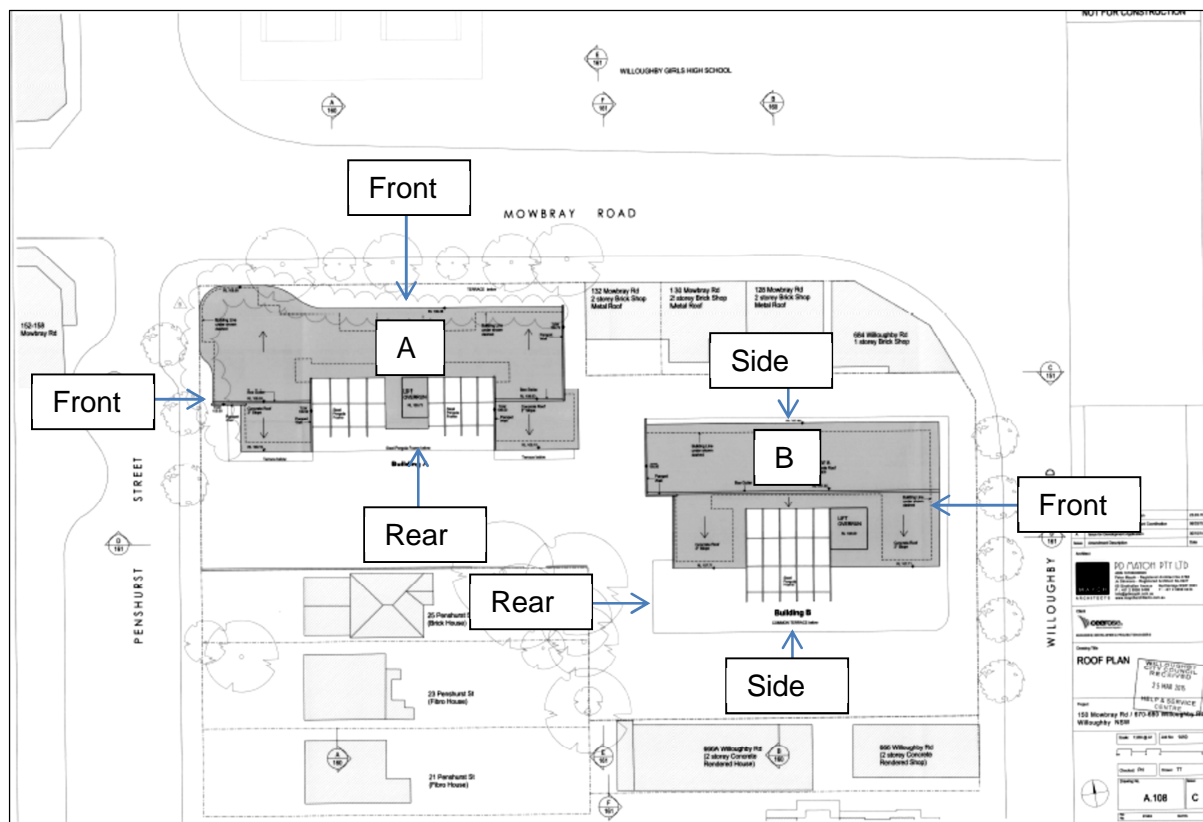


Figure 4 - Roof Plan (Amended) Setbacks

As noted in the Development statistics, the proposed development does not strictly comply with the required setbacks. However, the assessing officer as well as Council's Urban Consultant agree that the strict application of the setback requirements contained in the WDCP is unlikely to achieve the best planning and development outcomes particularly with respect to the commercial streetscape, and that the proposed setbacks should be considered on the merits of the proposal. As previously discussed in this report, the amended proposal has increased the upper level setbacks from the respective street boundaries, and is considered to achieve an acceptable outcome in terms of streetscape and building appearance.

As illustrated on the submitted elevations and sections these are areas of the proposed development where less than required setbacks have been provided, but also areas of the proposed development where greater than required setbacks have been provided.

Due to the location of the vehicular access to the existing commercial buildings at No 680 Willoughby Road and 150 Mowbray, there is substantial spatial separation between the existing commercial buildings and the respective southern boundary of the site. The

proposed development, in its siting and layout generally maintains this spatial separation where practical so that the level of amenity between the properties does not substantially change. It is also noted that the southern part of the site is affected by an easement benefiting No 25 Penshurst Street.

Likewise, the setback of Building B with respect to the northern/side boundary has also increased at the lower levels from that which is required to ensure adequate landscaping can be provided between the proposed development and the developments to the north. It should be noted that landscaping is generally not required along the side setback of mixed use developments within the commercial zone.

In general, the proposal's non-compliances with the setback requirements are not considered to be a consequence of the proposed density, but rather reflective of a considered response to the site circumstances, including its relationship to the streetscape and adjoining developments.

Landscaping & Open space (E1.6, E1.7)

The landscape and open space design of the proposed development as originally submitted does not optimise the use of landscaping and open space to improve on-site amenity, nor adequately mitigates the external impacts of the development. In addition, the majority of the proposed communal open space areas are mostly designed for circulation, and do not promote active or passive recreation uses.

The amended proposal converts previously proposed "Green roofs" to communal open spaces given their good solar access and adequate separation distance from the residential properties to the south. There are also amendments to the communal open space on the ground floor level between the proposed Building A and Building B, including the deletion of the pathway to the north of the proposed ground floor units within Building B, and the revision of the overall landscaping design and other facilities to support passive recreation within the development.

However, the amended proposal does not materially address the design and usage of the "Deep Soil" area to the south of the proposed Building B, which is mostly terraced with deck and has limited tree planting. It is noted that access to this area from the residential component of the proposed development is also limited. In this regard, consideration should be given to provide outdoor usable space for the proposed "commercial" unit at this level, together with the provision of deep soil planting including suitable trees in this area. **(Condition 7)**

Neighbour Notification Issues:

The issues raised in the submissions received in response to the notification of the application are discussed below. Note that discussions relating to the proposed development's non-compliances with the Height and FSR standards are contained in the Assessment section of this report and are not repeated here.

Traffic impacts

The correspondents raised general traffic concerns with respect to the proposed development noting that the existing traffic conditions at the locality including along Mowbray Road and Willoughby Road are already considered to be congested.

Comments: The site is located on that section of Mowbray Road (between Penshurst Street and Willoughby Road) with daily average traffic volumes exceeding 20,000 vehicles. Based

on the submitted traffic report, which includes calculation of traffic generation in accordance with the RTA Guidelines to Traffic Generating Developments the proposed development will generate a total of 66/74 vehicle trips per hour (am/pm peak hours). This is compared to 30/26 vehicle trips per hour of the existing commercial premises at the site as surveyed by the applicant's traffic consultant. It is noted that due to a large proportion of the existing commercial premises at the site being vacant, the survey is more than likely to understate the potential traffic generation rate of the existing commercial premises. The traffic generation of the proposed development is considered to have acceptable impacts to the local and regional road network as assessed by the Roads and Maritime Services, and Council's traffic engineer even as originally proposed at 110 shop top housing units plus commercial premises, which has been reduced to 104 units in the amended proposal.

It is noted that the performance (represented as service levels based on matters such as delay and queuing) of the nearby intersections, including the intersection of Mowbray Road and Penshurst Street, and Mowbray Road and Willoughby Road will not change as a result of the proposed development.

Parking issues

The correspondents expressed concerns that there are limited street parking spaces within the vicinity of the site, and that the proposed 91 residential car spaces do not provide sufficient car parking spaces for the proposed 104 shop top housing units.

Parking restrictions apply along the Mowbray Road and Willoughby Road frontages of the site and surrounding streets, due to their proximity to nearby shops and transport (bus stops). Street parking is generally well utilised at the locality. This is partly due to the lack of off-street parking and loading facilities for a lot of the older commercial properties, including the existing commercial properties adjoining the northern boundary of the site which have no vehicular access nor car parking.

The proposed 91 residential car spaces comply with the requirements contained in Part C.4 of the WDCP as noted in the Development Statistic section of this report. It should be noted that the car parking rates contained in the WDCP take into account unit mix and the location of the site being on a major public transport corridor serviced by multiple bus routes. The shortfall of car spaces with respect to the proposed development is minor, and is related to the number of visitor car spaces only. It is noted there is a discrepancy between the residential visitor car spaces rate contained in the WDCP and the RTA Guidelines to Traffic Generating Developments. The proposed development is consistent with the latter.

Note: The issues raised in the submission from No 30 Penshurst Street also relate to a refused development application for that property, and how car parking issues at the locality is considered to have been given different weight/ priority when compared to a recently approved application at No 34 – 42 Penshurst Street and the current application. This is not a relevant planning issue to be considered in the assessment of this application. Other issues raised including impacts of the proposed development on traffic and parking conditions at the locality have been discussed above.

Pressure on local infrastructure

The correspondents are concerned the proposed development will put pressure on infrastructure, exacerbating issues such as overcrowding of local schools and transport.

The increase in residential and population density will inevitably impact on local infrastructure, including roads, drainage, parks and the like. Through strategic planning processes, such as the making of the current Local Environmental Plan, and other studies

including traffic studies, open space planning or recreational needs studies, these matters are being addressed by Council in its role of providing local infrastructure. Through developments, Council also collects Developer's Contributions under s94A of the Environmental Planning and Assessment Act. These contributions are then put towards the implementation and renewal of infrastructure.

Other matters such as public transport and education are matters for the State government, but Council does consult with State government agencies in strategic planning and traffic management processes.

Solar access and other amenity issues

The correspondents at Unit 13 of No 654 Willoughby Road and Unit 8 of No 597 Willoughby Road raised concerns that the height of the proposed development will unreasonably affect solar access to their properties.

The correspondent at Unit 13 of No 654 Willoughby Road is also concerned that the development is an overdevelopment of the site, and breaches the height limit of 11m by 59.9% and the floor space ratio standard by 23%.

The correspondent at Unit 8 of 597 Willoughby Road is also of the opinion that the development's breach of the height standard will disrupt solar access and views of No 597 Willoughby Road.

The overshadowing impacts of the proposed development and the impacts of the proposed variation to the Height of Building standard with respect to No 597 Willoughby Road and No 654 Willoughby Road are considered as follows:

- The property at No 597 Willoughby Road is located on the eastern side of Willoughby Road, opposite the existing driveway at No 680 Willoughby Road, to the south east of the site. The proposed development is not considered to result in any unreasonable overshadowing to the property at No 597 Willoughby Road, which has its western elevation facing the site and is separated by Willoughby Road. The existing commercial building at No 680 Willoughby Road and the proposed development will only affect the property at No 597 Willoughby Road in the late afternoon at Winter solstice based on the orientation of the properties and the azimuth of the sun. The solar access to the property at No 597 Willoughby Road will be largely dependent on any redevelopment of the property at No 599 Willoughby Road directly to the north, which is currently a petrol station.
- With respect to the property at No 654 Willoughby Road, which is two properties south of the proposed development, the submitted shadow diagrams illustrates that the north facing living room windows of the property are not adversely affected by the proposed development. It should be noted that the proposed development's breach of the height standard within that part of the site with an 11m height zone is not considered to materially change the overshadowing impacts of the proposed development given the southern part of the site closest to the correspondent's property has an 18m height standard.

View loss/ loss of outlook and other residential amenity issues

The correspondent at No 132 Mowbray Road and No 597 Willoughby Road have both raised concerns with the impacts the proposed development with respect to the amenity of their property. These issues are considered as follows:

- The property at No 132 Mowbray Road adjoins the northern boundary of the site. It is a two-three storey shop with a residential unit on its upper levels. The rear of the residential unit currently overlooks the existing commercial building, and car parking area adjoining the common boundary of the properties. There is currently no outlook or solar access to the rear (south) of the property at No 132 Mowbray Road. The rear elevation of the property at No 132 Mowbray Road is setback approximately 4m from the common boundary with the site.

Based on the siting of the proposed buildings, the rear elevation of the property at No 132 Mowbray Road will be overlooking the communal garden/courtyard areas through the 9m building separation between the proposed Building A and Building B. This is considered to be a general improvement to the existing outlook from this property. Given the commercial zoning of the site, and shop top housing being a permissible use, the level of amenity retained by the proposed development for the shop top residential unit at No 132 Mowbray Road is considered reasonable.

It is also noted that the proposed Building B has provided sufficient setback away from the site's northern boundary/common boundary with the existing small allotments at the corner of Mowbray Road and Willoughby Road, namely 132, 130A and No 684 Willoughby Road to ensure that these sites if there is opportunities in the future can be redeveloped.

- With respect to the property at No 597 Willoughby Road, which is located opposite the development site across Willoughby Road, there is no loss of residential amenity that can be substantiated within reasonable planning considerations. It is noted that the amenity of the property at No 597 Willoughby Road is likely to be dictated by the fuel station adjoining its northern boundary and the heavy traffic on Willoughby Road.

The perceived amenity impacts of the correspondent as a result of the proposed development may be related to that area of the development site which is currently an existing driveway area, and has no substantial building or structure. However, this part of the development site has a height limit of 18m, and the development's non-compliance with the height of building standard is not located in this area. There is neither reasonable view nor reasonable expectation of view that can be obtained through the site from the property at No 597 Willoughby Road given the zoning of the site and the respective height limit.

Right of way benefiting No 25 Penshurst Street

The correspondent at No 25 Penshurst Street is concerned that the proposed development will infringe upon an existing right of way located along that part of the development site that is 150 Mowbray Road. The correspondent has submitted a survey plan indicating a 3.05m wide right of way burdening the site and benefiting the property at No 25 Penshurst Street.

It is the understanding of the assessing officer that Clause 1.9A of the WLEP suspends covenants and other restrictions on land for the purposes of the Environmental Planning and Assessment Act. Should the correspondent be concerned that their private right is infringed, then the correspondent should obtain their own legal advice and pursue such civil matter privately.

Notwithstanding Clause 1.9A of the WLEP, the proposed vehicular access largely retains the levels and configurations along the site's common boundary with No 25 Penshurst Street. It is not apparent that the proposed development will remove vehicular access to No 25 Penshurst Street.

Construction impacts

It is inevitable that the construction of the proposed development will cause some disruption to local traffic and the immediately adjoining neighbour, both in terms of works and construction traffic. It is a standard condition of consent that a traffic management plan and construction management plan is required for such development works (**Condition 17 & 18**) in addition to any soil and sediment control measures. The standard construction hours as provided in the recommended conditions of consent are 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. Any road occupancy and road closure as a result of construction of proposed development are also subject to separate permit applications and will be reviewed by the relevant road authority, in this case, either Council or RMS. The content of construction and traffic management plans may cover issues including spoil route, truck route, parking of construction vehicles and the location of material storage, etc. Construction noise is also restricted by recommended **Condition 64**.

CONCLUSION

The proposed development in general is considered a well-designed response to the site's attributes, including its relationship to the adjoining properties and a suitable building presentation to a gateway location at an existing commercial strip. The proposed buildings provide a more cohesive streetscape presentation along all its street frontages with architectural elements and built forms that are proportional and more compatible with the conventional shopping strip character of the adjoining and surrounding commercial properties at the locality than the existing commercial buildings at the site. The proposed massing and architectural elements of the proposed building respond well to the site's development context, and the development is likely to establish a more vibrant and visually interesting streetscape for the locality. The proposed buildings also provide adequate separation and landscaping to improve the interfaces with, and outlooks from adjoining properties than the existing commercial buildings.

The development's variation to the 18m height standard is mostly minor and does not change the scale of the proposed development or its external impacts. The amended proposal has further increased the upper level setbacks of the proposed building away from the lower levels to ensure the visual proportion of the development is appropriate to the streetscape. The assessing officer also accepts that the 11m height standard applying to No 670 Willoughby Road, is an anomaly in the WLEP 2012, and strict compliance with the standard will not achieve acceptable development outcomes.

The development's variation to the FSR standard is well accommodated within the environmental capacity of the site. The proposed development as amended also reasonably resolves the issues of concern raised during preliminary assessment of the proposal, by reduction in the overall density of the site, and improvements to the internal amenity of the proposed shop top housing units to ensure their design qualities are not compromised by the proposed density.

Noting that whilst the proposed development does not strictly comply with the height of building and FSR standards in the WLEP, numerical variations to these standards are not considered to hinder the objectives of the standards, and therefore, strict application of the

development standards will be unreasonable and unnecessary having regard to the requirements of Clause 4.6 of the WLEP and the relevant court planning principles.

OFFICER'S RECOMMENDATION

- 1) THAT the development's Clause 4.6 variation to the development standard contained in Clause 4.3 of WLEP 2012 – Height of Building be approved for the reasons below:**
 - a. The proposed development, despite its numerical variation to the height standard will be compatible with the desired future character of the locality.**
 - b. The extent of variation to the height standard is minor and does not materially change the scale of the development or its external impacts.**
 - c. The 11m height standard applying to that part of the site, being No 670 Willoughby Road Willoughby is considered an anomaly and strict compliance with the maximum 11m height standard will not achieve acceptable built forms or development outcomes that are compatible with the streetscape nor will it achieve a suitable transition of building height along Willoughby Road.**
- 2) THAT the development's Clause 4.6 variation to the development standard contained in Clause 4.4 of WLEP 2012 – Floor Space Ratio be approved for the reasons below:**
 - a. The proposed massing and architectural elements of the proposed building respond well to the site's development context, and the development is likely to establish a more vibrant and visually interesting streetscape for the locality.**
 - b. The visual bulk and scale of the proposed development are considered suitable for the gateway location of the site.**
 - c. The provision for private open spaces for those lower floor units in the form of winter gardens is considered necessary given the heavy traffic conditions along Mowbray Road and Willoughby Road. This has exaggerated the development's numerical breach of the FSR standard.**
 - d. The proposed numerical non-compliance does not hinder the development from meeting the objectives of the standard with respect to controlling the developments impacts such as traffic generation, or external impacts such as overshadowing.**
 - e. The amended proposal generally demonstrates that the density of the proposed development will not unduly compromise the level of internal amenity to the proposed shop-top housing units pursuant to the criteria set out in SEPP 65.**
- 3) That Development Application 2014/510 seeking consent for demolition of the existing buildings and structures and the construction of commercial (retail and business) premises and 104 shop-top housing units at 150 Mowbray Road, 670 & 680 Willoughby Road, Willoughby be approved and consent be granted by the Joint Regional Planning Panel subject to the recommended "Deferred**

Commencement" conditions in attached Schedule 1 and conditions of consent in attached Schedule 2.

Recommended Deferred Commencement Conditions and Conditions of Consent

SCHEDULE 1

- A. Submission of amended plans and details satisfying the following engineering requirements:

A. Stormwater design

1. Pursuant to Part C.5 of Council's DCP, the Applicant is required to provide an On Site Detention (OSD) system for this development. The application will further intensify the use of the site which will further increase stormwater runoff generated from the site. As such, OSD system shall be provided for the proposed development.

In this respect, full design details and supporting calculations showing the method of disposal of all sub-surface, surface and roofwater via the OSD system shall be submitted to Council for further assessment.

The stormwater plans shall include the size, location, critical levels of the stormwater storage system and the invert levels of all receiving and outlet pipes. It is also necessary for the Applicant to include details of the underground piping system for the collection and distribution of on-site stormwater.

2. Pursuant to Council's Technical Standard No.1, a direct connection to Council underground drainage system is required if the total Permissible Site Discharge (PSD) from the site is greater than 20L/s. Should a direct connection be required, the capacity of the Council's stormwater in-ground system shall be hydraulically evaluated using the Hydraulic Grade Line (HGL) method to ensure no backwater effect will occur from the Council system to the proposed OSD system.
3. Submit Design Certificates and Council's QA checklists issued by a practising qualified Design Engineer certifying that all required design for the OSD and rainwater retention systems have been carried out in accordance with Council policies and specifications.
4. Details of an overflow weir/spillway with an overland flow path that directed to the Council's drainage system shall be provided. Calculations are to be provided on the stormwater plans showing that the overflow elements can cope with any 1 in 100 year ARI storm event.
5. Submission of supporting calculation showing the determination of orifice size. The head (h) shall be taken from the centreline of the orifice to the invert of the overflow level. The invert level of the orifices plate shall be located slightly below the invert of the tank to ensure no water ponding within the tank. Details of an overflow when the orifice outlet gets blocked shall be provided. Orifices plates are to be made from stainless steel/galvanised iron of minimum dimensions of 200mm x 200mm x 3mm thick and be machined to the exact diameter as calculated. They must be bolted to the pit walls or permanently fixed in the pit so that they cannot be easily removed. Silicon must be used to seal around the edges to ensure no leakage of water.
6. All submitted stormwater drawings shall be designed for construction purposes and shall be signed by the practicing civil engineer on each drawing.

7. Details of the pump-out system for the basement car park shall be revised to address the following: -

- Supporting calculations showing the volume of pump-out tank have been designed with a minimum storage capacity equivalent to the runoff volume generated from the estimated seepage and driveway access ramps for in 1 in 100 year ARI 2-hours duration storm event.
- Cross-section details of the pump-out system (including float switches, location of the pumps, step irons etc.) and diameter and class of rising main/s from pump-out system shall be shown on the stormwater management plans.
- Information of the selected pumps (eg brand, model numbers, performance curves and specifications) shall be provided. Note that the minimum capacity for the pump shall be 10L/s or based on the flow rate generated for 1 in 100 year ARI 5-minutes storm event of the area draining into the tank, whichever is greater.

B. Design of driveway

1. For the driveway ramp leading to the 90 degree basement aisle, the minimum inside radius of the curve ramp shall be 4 metres to comply with AS2890.1. In addition, the applicant shall demonstrate by way of Autoturn simulation that there are sufficient circulation width for 2 ways traffic travelling at the same time on the all driveway ramps and the 90 degree basements aisles.

2. In order to ensure that no scraping to vehicles would occur as they pass over the new vehicular crossing, the applicant shall submit longitudinal sections along each side/edge of the proposed vehicular accesses path drawn at 1:20 Scale. The driveway is to be designed using Council's standard vehicle profile and for MR vehicles. The longitudinal sections shall be prepared by a suitably qualified person and shall include the following: -

- Horizontal distance from the centreline of the road to the proposed parking slab, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm deep and the back of layback is 100mm above the gutter invert.

- Both existing and proposed levels (in AHD) and gradients represented in percentage of the vehicular crossing and driveway.

- The crossing is to be 6 metres wide with no splays and be to constructed at right angle to street kerb. The centreline of the new crossing shall be in-line with the centreline of the driveway. 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 new gutter invert.

-At property boundary – 180 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%. All driveway grades and transitions shall comply with AS 2890.1 -2004 and Council's specifications. 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.

- The longitudinal section must demonstrate that a maximum gradient of 5% has been provided for the first 6 metres from the property boundary into the basement and a minimum clearance of 2.5 metres (clear from any proposed roller shutter or building above) at the basement entrance can be achieved to comply with AS2890.1.
3. In order to provide adequate entering sight distance to traffic on the frontage road and sight distance to pedestrians on the frontage road footpath, a 2m x 2.5m splay corners shall be provided at the driveway exit to the street and to Basement 1 /lower ground to comply with Section 3.2.4 of AS2890.1.
 4. All parking spaces must have minimum dimensions of 2.4m x 5.4m to comply with AS2890.1-2004, clear of any obstructions. As such, the applicant must clearly indicate on the basements plan that all parking spaces are open style with no partitions and doors to all storage areas are either sliding doors or swing inward to the storage area. Otherwise, space width must be increased to a minimum of 3 metres to comply with AS2890.1.
 5. With regard to the proposed disable parking, a shared area, on one side of the dedicated disable parking space, shall have minimum dimensions of 2.4m wide x 5.4m long to comply with AS2890.6. In addition, a shared area 2.4m x 2.4m shall also be provided at one end of the dedicated space.
 6. The car space must be numbered and dimensions of all car space and aisle width are to be clearly shown on plans. A minimum aisle width of 5.8m must be provided. Particular attention is to be paid where parking space(s) are proposed at blind aisles; the aisle shall be extended a minimum of 1m beyond the last parking space to comply with section 2.4.2c of AS2890.1-2004.
 7. The Applicant shall submit Autoturn simulation for MR vehicles showing the ingress and egress from Penshurst Street to the loading bay. The Autoturn shall be shown in scale 1:100 and must demonstrate that there are sufficient turning areas for MR vehicles to ingress and egress from Penshurst Street to the loading bay. The proposed kerb alignment with all required dimensions and radius in front of proposed new loading bay shall be provided. The Applicant shall also demonstrate in the plans that a headroom clearance of 4.5m has been provided around the loading area in order to comply with section 4 of AS2890.2.

SCHEDULE 2

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
Demolition	A010	A	21 Nov 2014	25 Mar 2015	PD Mayoh P/L

Plan					
Architectural plans	A101	E	25 Mar 2015		
	A102, A103, A104, A105, A106, & A107.	D			
	A108	C			
	A150, A151, A160, A161, & A162	C			
External finishes schedule	A180	B			
Landscape Plans	C001	D	20.03.2015		Site Image Landscape Architect
	101	D			
	102	C			
	103	C			
	104	C			
	C105	D	19.03.2015		
	501	C	20.03.2015		

AS AMENDED by the Deferred Commencement Conditions contained in Schedule 1 of the Deferred Commencement Consent, 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.

2. Garbage Bin Storage Room

The garbage bin storage rooms shall be constructed in accordance with the requirements of Council's Waste Minimisation and Management Policy. Plans and details complying with the following requirements must be shown on Construction Certificate plans for approval by the Certifying Authority:

- a) Adequate ventilation being provided by an exhaust ventilation system or by unobstructed natural ventilation openings direct to external air. Mechanical exhaust systems shall comply with AS1668 and not cause inconvenience, noise or odour problem.
- b) A cold water supply being provided.
- c) Floors of the bin storage room must be graded to an approved Sydney Water basket trap drainage fitting connected to the sewer. Storm water must not be permitted to enter this floor waste trap
- d) Artificial lighting must be provided controlled by a motion sensor located both outside and inside the room.
- e) The bin storage rooms must be fitted with lockable self-closing doors. The residential bin storage room shall not be made accessible to the commercial/business tenants.
- f) A galvanized bump rail shall be installed at least 50mm clear of the walls at the height of the most prominent part of the garbage bins.

(Reasons: Waste Storage, Amenity)

3. Adaptable Units

Adaptable residential units for disabled persons are to be provided as identified by the approved plans and supporting document to the development application. All adaptable units are to be identified on the Construction Certificate drawings and is to be provided with disabled car spaces as nominated on the approved plans.

(Reason: Provision of adaptable housing & Amenity)

4. Section 94A Contributions

A monetary contribution of \$ 283,465.00 (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 \$28,346,552.00 at 21 Nov 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)

5. Services - Energy Australia

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

6. External Finishes and Colours

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

7. Additional tree planting

Three (3) additional semi-mature trees (additional to the ones identified on the approved landscape plan) to be provided within the southern setback area of Building B. The trees are to have mature height of approximately 3.5- 4.5m and canopy spread at 1.5-3m. The terracing of the subject landscaped area is to be reduced if necessary to support healthy growth of all tree plantings. Plans and details complying with this condition of consent must be shown on construction certificate plans.
(Reason: Deep soil tree planting and landscape amenity)

8. 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)

9. 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 the Schedule of Colours and Finishes submitted with the application satisfies this requirement.
(Reason: Visual amenity)

10. Damage Deposit

The applicant shall lodge a Damage Deposit of \$160,000 (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 \$200 (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)

11. 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)

12. Stormwater Conveyed to Street Drainage

Stormwater runoff from the site shall be collected and conveyed to the street drainage system in accordance with Road and Maritime Services (RMS) specifications. All drainage works shall comply with the requirements described in Part C.5 of Council's DCP and Technical Standards. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.
(Reason: Stormwater control)

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

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in Willoughby Road in accordance with Council's/RMS specification. A grated drainage pit (min. 900mm x 900mm) shall be provided within the property and adjacent to the boundary prior to discharging to the drainage system. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site are to be submitted to Council and RMS for approval.
(Reason: Prevent nuisance flooding)

14. Analysis of Outlet Condition

The capacity of the existing 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/RMS 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)

15. 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. The proposed on site detention (OSD) system shall have a minimum storage volume of 160m³. Stormwater runoff from all hard surface areas shall be collected and directed to the proposed OSD system. 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)

16. 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)

17. 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)

18. 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)

19. Vehicle Access – Engineer's Certification

Prior to issue of any Construction Certificate, the Applicant shall submit, for approval by the Accredited Certifier, 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 driveways and vehicular access ramps have been designed to provide adequate ground clearance to the underside of B99 vehicles.
- b) That all driveway gradients and transitions will not result in the scraping of the underside of cars.
- c) That a maximum gradient of 5% is provided for the first 6.5 metres for the driveway from the property boundary to the loading dock in Penshurst Street.
- d) That the proposed vehicular path and parking arrangements comply in full with AS2890 in terms of minimum dimensions provided,
- e) That the headroom clearance of minimum 4.5 metres between the basement floor and any overhead obstruction is provided which complies with AS2890.2
- f) 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)

20. Approval from Roads and Maritime Services (RMS) – Stormwater Discharge

Prior to issue of any Construction Certificate, the applicant shall submit, for approval by the Accredited Certifier, written approval from the Roads and Maritime Services (RMS) that the post development stormwater discharge from the subject site into the RMS' drainage system does not exceed the predevelopment discharge.

Detailed stormwater management plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the Roads and Maritime for approval.

Details to be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

(Reason: Ensure Compliance)

21. 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. The construction of new footpath for the full frontage of the development site in Penshurst Street in accordance with Council's specification and Standard Drawing SD105.

For design finished levels, the new footpath shall have crossfall of 2.5% from the boundary alignment and fall towards the top of kerb. 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 with pavers header-course footpath (max. 2.5% crossfall) for the full frontage of the development in Penshurst Street, Mowbray Road and Willoughby Road in accordance with Council's Standard Drawing SD112. Detailed long section and cross section shall be provided.
- c. The existing kerb and gutter associated with half road pavement in Penshurst Street shall be reconstructed. The applicant shall redesign the road pavement such that the low point in the street will be situated at the location of the new kerb inlet pit which is between the two new vehicular crossings. Council's standard design traffic for this pavement is 1×10^6 HVAG. Detailed long section and cross sections at 5 metres interval shall be provided.
- d. The construction of new perm ramps in the intersection of Penshurst Street and Mowbray Road and in accordance with Council's specification and standard SD100.
- e. The construction of a new 6 metres wide vehicular crossing in Penshurst Street. Council's standard layback and gutter shall be provided in accordance with Council's specification and standard drawing SD105.

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

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

22. Arboricultural Method Statement

- i) Submit to the accredited certifier an Arboricultural Method Statement. The Statement shall address tree protection and management of trees numbered T1, T2, T3, T4, T7 and T9 in the Preliminary Tree Inspection Report prepared by Treehaven Environscapes dated 12/6/2014 and must comply with the requirements detailed in AS4970-2009 Protection of trees on development sites.
- ii) A plan shall accompany the report indicating tree protection zones and tree protection details to be installed prior on or around the trees.
- iii) Protection measures are to be installed prior to commencement of works.
(Reason: Tree protection)

23. 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} (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)

24. Noise from Transport Corridor

To minimise the impact of noise from any external noise source on the amenity of the occupants, the building shall be constructed in accordance with the recommendations and specifications of the acoustic report prepared by Acoustic Logic Doc. Ref:20140401.1/0411A/R1/BW dated 4/11/2014.

Details of the proposed acoustic treatment shall be submitted to the Principal Certifying Authority.
(Reason: Amenity)

25. 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)

26. Contamination Detailed investigation

A Stage 2 – Detailed Site Investigation 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 detailed site investigation shall provide information about the extent of contamination and the risks of the contaminants to health and the environment. The investigations shall also address all recommendations in the Preliminary Site Assessment prepared by **Environmental Investigations Ref. No: E22233AA_Rev1 dated 3 October 2014**. The report shall be submitted to Principal Certifying Authority and a copy to Council for its records for review and concurrence.
(Reason: Environment and health protection)

27. 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)

28. 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)

29. 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 as detailed in the acoustic report prepared by Acoustic Logic Doc. Ref:20140401.1/0411A/R1/BW dated 4/11/2014 are maintained. Details of the proposed equipment, siting and any attenuation required shall accompany the application for Construction Certificate.
(Reason: Amenity)

PRIOR TO COMMENCEMENT

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

30. Design and construction of replacement kerb and gutter

The design and construction of the replacement kerb and gutter on Willoughby Road shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime's Statewide Delivery Section on 8849 2138.

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.
(Reason: RMS Requirements)

31. Detailed design plans and hydraulic calculations

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 2114 or Fax: 8849 2766.
(Reason: RMS requirement)

32. Excavation and site support

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six(6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

Telephone 8849 2114
Fax 8849 2766.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work. (Reason: RMS requirement)

33. 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)

34. 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)

35. Dilapidation Report of Adjoining Properties

Submit a photographic survey and dilapidation report of the adjoining properties 666 Willoughby Road, 132 & 130A Mowbray Road, 684 Willoughby Road, and No 25 Penshurst 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 these properties, both internal and external including items as walls, ceilings, roof, structural members and other items as necessary. Survey and report covering additional properties is required if the geotechnical report required by conditions of this consent reveals that additional properties will potentially be affected by the excavation and construction works associated with the approved development.

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.

This dilapidation report shall be submitted to Council and the Principal Certifying Authority (if Council is not the PCA).
(Reason: Protection of adjoining owners)

36. 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)

37. 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)

38. Report Existing Damages on Council's Property

Prior to commencement of any works on site, the applicant shall notify Council in writing with digital photographs of any existing damages to Council's assets fronting the property and the immediate adjoining properties. Failure to do so will result in the applicant being liable for any construction related damages to these assets. In this respect, the damage deposit lodged by the applicant may be used by Council to repair such damages.

(Reasons: Protection of Council's Infrastructure)

39. Permits and Approvals Required

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

- a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and the RTA. A separate written application to work outside normal hours must be submitted for approval.

It should also be noted that, in some cases, the above Permits may be refused and temporary road closures required instead which may lead to longer delays due to statutory advertisement requirements.

- c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).
- f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

(Reason: Legal requirements)

40. Application for Vehicle crossing

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

(Reason: Protection of public asset)

41. Spoil Route Plan

Submit a “to and from” spoil removal route plan to Council prior to the commencement of excavation on the site. Such a route plan should show entry and exit locations of all truck movements.
(Reason: Public amenity)

42. 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)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

43. Excavation and/or Fill Containment

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

44. Hours of Work

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

An application 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)

45. 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)

46. 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)

47. Provide Erosion and Sediment Control

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

(Reason: Environmental protection)

48. Demolition Work AS 2601

Demolition works being carried out in accordance with the requirements of AS 2601 "The demolition of structures".

(Reason: Safety)

49. 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)

50. 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)

51. 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)

52. 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)

53. 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)

54. 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)

55. 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)

56. 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)

57. Tree Protection

- i) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal on Landscape Plan Ground Floor Drawing Number 102B dated 15.10.2014 prepared by Site Image
- ii) The above trees must be clearly marked and protection devices in place prior to commencement 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 AS 4970-2009 Protection of trees on development sites.

(Reason: Tree management)

58. 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)

59. Waste Classification – Excavation Materials

All materials excavated and removed from the site (fill or natural) shall be classified in accordance with the Environment Protection Authority (EPA) Waste Classification Guidelines prior to being disposed of to a NSW approved landfill or to a recipient site.
(Reason: Environment and health protection)

60. Hazardous Materials – Clearance Certificate

Following completion of the removal of any identified hazardous material associated with demolition works, a clearance certificate shall be issued by an appropriately qualified occupational hygienist and submitted to the Principal Certifying Authority. The clearance certificate shall verify that the site is free from any hazardous materials from the demolished buildings.
(Reason: Health and safety)

61. Unexpected Finds Protocol

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

62. Importation of Fill

Any material to be imported onto the site for levelling, construction or engineering purposes must satisfy the Office of Environment & Heritage (OEH) requirements for *virgin excavated natural material* (VENM), or *excavated natural material* (ENM). The determination of VENM or ENM must be made by suitable qualified consultant. Pre-certification of the imported material shall be made and details made available to Council upon request.
(Reason: Environment & Health Protection)

63. Dust Control

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

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be

allowed to enter the street or stormwater system.

- d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity)

64. Construction Noise

Construction noise shall be controlled to comply with the requirements as set out in the EPA Interim Construction Noise Guideline. Noise levels shall not exceed the rated background level by more than 10dB(A) at the most sensitive receiver during the standard construction hours. A noise monitoring plan shall be implemented during construction. Where noise levels may be exceeded appropriate measures to control excessive noise shall be implemented immediately.

(Reason: Amenity)

65. Contamination/Remediation – Documentary Evidence

Documentary evidence prepared by a suitably qualified environmental consultant shall be submitted to the Principal Certifying Authority (*and the Council if the Council is not the Principal Certifying Authority for review and concurrence*) after all excavated soil has been removed and prior to construction of the development, certifying that sampling has been undertaken to demonstrate that any contaminated material has been removed from the site and that the land is suitable for the proposed mixed residential use.

(Reason: Environmental Health)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

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

66. 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)

67. Street Number Display

The street number of the approved development shall be clearly displayed.

(Reason: Information)

68. Commercial – Tenancy/shop Number Display

Tenancy/shop number shall be clearly displayed adjacent to the head of the entry door to the premises.

(Reason: Information)

69. Commercial – Awning Width

The width of the awning along Mowbray Road, Penshurst Street and Willoughby frontages of the site must be at least 600 mm less than the width of the footway over which it is to be erected.

(Reason: Safety)

70. Removal of redundant driveway

The redundant driveway on Willoughby Road shall be removed and replaced with kerb and gutter to match existing.

(Reason: RMS requirement)

71. Marked Parking Bays

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

(Reason: Ensure compliance)

72. 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)

73. 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)

74. Registration of Plan of Consolidation & Registration of Right of Way

Evidence of registration of the plan of consolidation and the right of way as described below be submitted to Council prior to the issue of an occupation certificate.

- a) All individual allotments involved in the development site being consolidated into a single allotment.
- b) Areas of the approved development must be preserved to accommodate a suitable right of way burdening the development site for vehicular access by the registered proprietors of the schedule of land listed below should these properties be consolidated for redevelopment.

Nothing in above b) prevents the registered proprietor of the subject development site from:

- I. constructing a wall at the boundary of the burdened land and the land comprised , lot 1 DP 547614, or any other building component or improvement within the area so described in the approved plans to the development consent provided that such wall, building component or improvement is constructed in a manner which allows for its future removal to accommodate the future use of the subject area as a right of way: and
- II. installing a security gate, locking mechanisms, security systems or other devices for purposes of security control.
- III. imposing reasonable conditions upon the grant of any right of way.

SCHEDULE OF LAND

Lot 1 in DP547614,
 Lot 2 in DP 547614, &
 Lot B in DP 331830

(Reason: Access/right of way, site isolation, consolidation)

75. Safer by Design

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

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

 This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.
- ii. The roof and vertical structures of the basement parking area shall be painted white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- 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)

76. Visitor and commercial car spaces

All visitor car parking spaces are to be physically identified on site, and maintained free of obstruction for the exclusive use of all visitors to the approved development at all times.

To maximise the efficiency of car parking spaces outside normal business hours, meaning 9am-5pm weekdays, and all weekends.

The approved commercial car spaces must be made freely available to all visitors to the commercial premises during trading hours of the commercial tenancies unless otherwise in use by a staff member of the commercial tenancies or is designated for delivery/courier or loading/unloading purposes as nominated on the approved plans of the development.

The use of visitors and commercial car spaces must be reflected in by-law of the strata management plan or building management plan for the approved development.

(Reason: parking management)

77. Services - Electricity Supply and Telecommunication Mains

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

(Reason: Compliance)

78. 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)

79. Residential Flat Building - Clothes to be Dried in the Open Air

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

(Reason: Amenity)

80. 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)

81. Residential Flat Building - Screening of Rooftop Plant/Structures

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

(Reason: Visual amenity)

82. Safer by Design

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

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

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.
- ii. The roof and vertical structures of the basement parking area shall be painted white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- 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)

83. 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)

84. Grated Box Drain

For stormwater control a 300 mm wide grated trench drain with a heavy duty removable galvanised grate is to be provided in front of the garage door/basement parking slab to collect driveway runoff. The trench drain shall be connected to the main drainage system and must have an outlet of minimum diameter 150mm to prevent blockage by silt and debris.

(Reason: Proper disposal of stormwater)

85. On-site Water Management System

The stormwater runoff from the site shall be collected and disposed of via an approved 160m³ on site detention system in accordance with Sydney Water's requirements, the NSW Code of Practice – Plumbing and Drainage, Council's DCP and Technical Standards. The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved design stormwater management plans and Council's specification (AUS-SPEC).

(Reason: Prevent nuisance flooding)

86. Sign for OSD system

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

87. Confined Space Sign

Securely install a standard confined space danger sign in a prominent location within the immediate vicinity of access grate of the On Site Detention System and the basement pumpout tank.

(Reason: Safe access to tank)

88. 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)

89. 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)

90. 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)

91. 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 stormwater management 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 either under Section 88B of the Conveyancing Act 1919 or under Section 88E(3) of the Conveyancing Act 1919 using Form 13PC and 13RPA respectively. The relative location of the on site detention tank and/or rainwater retention and reuse tank, 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)

92. 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)

93. Splay Corner for Fence

In order to ensure adequate sight distances for pedestrians and traffic in the frontage road, a 2m x 2.5m splay to comply with Fig 3.3 of AS2890.1

(Reason: Pedestrian safety)

94. Construction of Kerb & Gutter

Prior to issue of any Occupation Certificate, the applicant shall complete the following civil works in accordance with Council's specification and to the satisfaction of Council:

- a) Construct new kerb and gutter together with half road reconstruction for the full frontage of the site in Penshurst Street.

(Reason: Public amenity)

95. Reconstruct Pavement

Prior to issue of any Occupation Certificate, the applicant shall complete the following civil works in accordance with Council's specification and to the satisfaction of Council:

- a) Half the road pavement for full frontage of the development site in Penshurst Street shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this rigid pavement is 1×10^6 HVAG.

(Reason: Ensure compliance)

96. Concrete Footpath

Prior to issue of any Occupation Certificate, the applicant shall complete the following civil works in accordance with Council's specification and to the satisfaction of Council:

- Construct a new footpath for the full frontage of the development site in Penshurst Street. For design finished levels, the new footpath shall have

crossfall of 2.5% from the boundary alignment and fall towards the top of kerb.

- Construction of full width bitumen infill with pavers header-course footpath (max. 2.5% crossfall) for the full frontage of the development in Penshurst Street, Mowbray Road and Willoughby Road in accordance with Council's Standard Drawing SD112. Detailed long section and cross section shall be provided.

All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. All works shall be carried out in accordance with Council's standard specifications and drawings.
(Reason: Public amenity)

97. Vehicular Crossing

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

The crossing is to be 6 metres wide with no splays and is to be constructed at right angles to the street kerb in plain concrete. The new crossing shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the parking space(s).

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 – 180 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)

98. 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)

99. Inspection of Civil Works on Road Reserves

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

Pursuant to Section 138 of the Roads Act 1993, all works carried out on the road reserve shall be inspected and approved by Council's Engineer. Upon completion, Work-as-Executed drawings prepared by a registered surveyor shall be submitted to Council for record purposes. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
(Reason: Ensure compliance)

100. Performance Bond

The Applicant shall lodge with the Council a performance bond of \$80,000 against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the Roads Act 1993. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
(Reason: Ensure compliance and specification)

101. Vehicle Access - Construction & Certification

Prior to issue of any Occupation Certificate, the Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. This certification must be based on a site inspection of the constructed vehicle access and accommodation areas, with dimensions measurements as necessary, and must make specific reference to the following:

- a) That the as-constructed carpark complies with the approved Construction Certificate plans,
- b) That a maximum gradient of 5% has been provided for the first 6.5 metres from the property boundary to the loading dock in Penshurst Street.
- c) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- d) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,

- e) That the headroom clearance of minimum 4.5 metres has been provided between the basement floor and any overhead obstruction to comply with AS 2890.2 and Section 2.4 of AS2890.6.
- f) That the headroom clearance of minimum 2.5 metres has been provided to all parking spaces for people with disabilities to comply with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

102. Public Tree Maintenance

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

- i All trees on public land have been adequately maintained, that there has been no net deterioration in health and condition, and that any remedial work complies with AS 4970-2009 "Protection of trees on development sites" and AS 4373 - 2007 "Pruning of Amenity Trees".
- ii All new and replacement public trees are of the required species, container size, planting locations, planting standards, and have been grown and supplied from a recognised nursery complying to NATSPEC 2 Guide, "Specifying Trees", 2003.

(Reason: Tree management, public asset management)

103. 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)

104. Public Tree Planting

- i) Eight trees are to be planted on Council land forward of the property in Penshurst St and Mowbray Road in locations generally as indicated on Landscape Plan Dwg No. C001 Issue C dated 31.10.2014 prepared by Site Image.
- ii) Selection of species to be planted is to be obtained from Council's Open Space Section prior to commencement of works.
- iii) The trees shall:
 - i. Have a minimum container size of 100 litres and grown to NATSPEC 2 "Guide Specifying Trees", (2003).
 - ii. Be planted in accordance with WCC Landscape Specification 08/2007 "Street Tree Planting".
 - iii. Be planted generally in alignment with other street trees.

(Reason: Landscape amenity, tree canopy recruitment)

105. Sound Level Output Certification

The sound level output from the equipment installed for the operation of the building shall comply with the noise emission objectives detailed in the acoustic report

prepared by Acoustic Logic Doc. Ref:20140401.1/0411A/R1/BW dated 4/11/2014.
Certification of the level of sound output is to be provided by an appropriately qualified acoustical Consultant to the Principal Certifying Authority.
(Reason: Amenity)

106. 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)

107. 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)

108. Allocation of Car Parking Spaces

The car parking spaces must not be separate allotments, but part allotments and are to be allocated on the following basis:

3 bedroom unit – Maximum 2 spaces
2 bedroom unit – maximum 2 spaces
1 bedroom unit – Maximum 1 space
Studio unit – Maximum 1 space

All commercial car spaces to be allocated as nominated on the approved plans.

Adaptable unit is to be provided with disabled car spaces as required as nominated on the approved plans.

The allocation of car spaces in accordance with the conditions of this consent and the approved plans must be reflected in any subsequent subdivision of the development, including strata subdivision.

(Reason: Car parking)

109. Turfing, Landscaping 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 and/or landscaping shall be protected from vehicular traffic and kept watered until established.

(Reason: Public amenity)

ADDITIONAL CONDITIONS

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

110. Separate Development Consent - Various

No approval has been granted as part of this development consent for usage and fit-out of any of the approved commercial tenancies and/or any signage.

(Reason: Ensure compliance)

111. All works/ Regulatory Signposting

All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime.

(Reason: RMS Requirements)

112. Annual Fire Safety Statement

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

(Reason: Safety)

113. Security Controlled Car Parking

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

114. 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 or from any appurtenant right of way.

(Reason: Access and amenity)

115. Site Lighting

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

(Reason: Amenity)

116. 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)

117. 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)

118. Adjustment to Electricity

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

(Reason: Public amenity)

119. 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)

120. 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)

121. Trees on Adjoining Properties

No approval is given for the removal of trees on neighbouring private land.

(Reason: Environmental protection)

122. 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)

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

123. 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)

124. 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)

125. 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)