

ATTACHMENT 2

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

JRPP No	2016SYE003
DA Number	DA-2014/445/B
Local Government Area	Willoughby City Council
Proposed Development	S96 - Modifications of the approved plans including changes to built form, to apartment layouts and numbers and increase in floor space.
Street Address	36-38 Hercules Street & 256-260 Victoria Avenue, CHATSWOOD NSW 2067
Applicant/Owner	Chatswood Place Pty Ltd c/- Platino Properties/Oscar Pty Ltd & Hercules Thirty Six Pty Limited
Number of Submissions	0
Regional Development Criteria (Schedule 4A of the Act)	Revised Capital Investment Value (CIV) is \$76,634,905.00.
List of All Relevant s79C(1)(a) Matters	WLEP 2012; SEPP State and Regional Development 2011 (SRD SEPP); Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; SEPP 55; SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP); SEPP 65; Residential Flat Design Code; Draft WLEP; Draft Apartment Design Guide (Draft ADG); WDCP; S94A Plan.
List all documents submitted with this report for the panel's consideration	Plans - A3 @ Scale 1:500 - Supporting Documentation
Recommendation	Approval
Report by	Ana Vissarion - Development Planner
Report date	1 March 2015

JRPP REPORT

36-38 Hercules Street & 256-260 Victoria Avenue, CHATSWOOD NSW 2067 (Cont.)

JRPP NO: 2016SYE003
COUNCIL: WILLOUGHBY CITY COUNCIL
ADDRESS: 36-38 Hercules Street & 256-260 Victoria Avenue,
CHATSWOOD NSW 2067
DA NO: DA-2014/445/B
ATTACHMENTS: 1. PLANS AND ELEVATIONS
2. NOTIFICATION MAP
DATE: 01-MAR-2016

RECOMMENDATION: APPROVAL
LOCATION: 36-38 HERCULES STREET & 256-260 VICTORIA
AVENUE, CHATSWOOD NSW 2067
OWNER: OSCAR PTY LTD AND HERCULES THIRTY SIX PTY
LIMITED
APPLICANT: CHATSWOOD PLACE PTY LTD
PROPOSAL: S96 - MODIFICATIONS TO APPROVED PLANS
INCLUDING CHANGES TO BUILT FORM, TO
APARTMENT LAYOUTS AND NUMBERS AND INCREASE
IN FLOOR SPACE.
DATE OF LODGEMENT: 17-DEC-2015
REPORTING OFFICER: ANA VISSARION

EXECUTIVE SUMMARY

The proposed modification application seeks consent to modify the original consent granted by JRPP on 19 October 2015 for “*Demolition of existing structures and construction of five (5) mixed use buildings containing retail premises, business premises, shop-top housing, car parking, childcare centre, landscaping, restoration of a heritage building and associated work*”.

The proposed modifications include:

- Increase in overall floor space ratio (FSR) from 2.36:1 to 2.49:1;
- Decrease in the number of apartments from 217 to 213;
- Reshape and re-design of the Oscar Street North building;
- Increase in the area allocated to the childcare centre to incorporate the business premises on the corner of Albert Avenue with Hercules Street; *and*
- Amendments to car parking provision and allocation, increasing the overall number from 435 to 444 car spaces.

The application is reported to Sydney East JRPP for determination as the original application met the relevant criteria to be considered regional development under Schedule 4A of the EP&A Act 1979 and consequently was approved by the JRPP.

NEIGHBOUR NOTIFICATION

The modification application was notified in accordance with Part B.4 of the Willoughby Development Control Plan (WDGP) from 14 to 29 January 2016.

Council received no submissions.

EXISTING BUILDING, SITE CONTEXT AND RELEVANT HISTORY

The site is known as 36-50 Hercules Street and 256-260 Victoria Avenue, Chatswood (Lot 101 DP 1158779, Lot 100 DP 1158779 and Lot 1 DP 828606). The block is bounded to the east by Hercules Street, to the west by Oscar Street, to the south by Albert Avenue and to the north by Victoria Avenue. The site is bordered by the Chatswood CBD to the west and north-west. To the south of the site, on the opposite side of Albert Avenue is the South Chatswood Heritage Conservation Area.

The site is rectangular in shape and has an area of 8,889m², with a frontage of approx. 156m to Hercules Street, 127m to Oscar Street, 42m to Albert Avenue and 60m to Victoria Avenue. No. 17 Albert Avenue is located on the south-west corner of the street block being the corner of Oscar Street and Albert Avenue and does not form part of the site.

The site includes a locally listed heritage item identified in Schedule 5 Environmental Heritage of the WLEP 2012 as Item I133, a building located on the corner of Victoria Avenue and Hercules Street.

The original development consent DA 2014/445 for "*Demolition of existing structures and construction of five (5) mixed use buildings containing retail premises, business premises, shop-top housing, car parking, childcare centre, landscaping, restoration of a heritage building and associated work*" was granted by JRPP on 19 October 2015.

A Section 96(1A) for "*Modification of Condition No. 133 On-site Car Parking*" was approved by Council on 23 December 2015. Private Building Certifiers have been appointed as the certifiers of the project and the demolition and excavation works have commenced.

The current proposal was subject to a Pre-Development Assessment Meeting. The applicant was advised by Council's officers that the plans and documentation must continue to reflect the controls and objectives of the WLEP 2012 and WDGP, including heritage controls, and demonstrate how the proposed modifications are likely to affect the development's compliance with SEPP 65 requirements.

CONTROLS AND CLASSIFICATION

- i) **Willoughby LEP 2012:** Yes
 - a. **Heritage Item and Heritage Conservation Area (HCA):** Yes, heritage item within the subject site; also, adjoins South Chatswood Heritage Conservation Area (across Albert Ave)
 - b. **Zoning:** B4 – Mixed Use
 - c. **Height:** 9m and 20m control (10.2m and 23m - 27.1m approved)
 - d. **FSR:** overall 2.5:1, with maximum allowable Residential component of 1.25:1 (*Clause 4.4A (14 a)*) (1.87:1 approved Residential component)
 - e. **Affordable Housing:** **Yes**, on Special Provisions Area Map – Area 3 refers to Clause 6.8 of WLEP 2012 – Special Provisions Sites.

ii) **Applicable DCP (SEPPs, REPs):** SEPP State and Regional Development 2011 (SRD SEPP); Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; SEPP 55; SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP); SEPP 65; Residential Flat Design Code; Draft WLEP; Apartment Design Guide (ADG); WDCP.

iii) **Developer's Contribution Plans:**

- a. **S94A Developers Contributions:** Yes, with original application
- b. **Applicable rate:** 1% (outside CBD)
- c. **Original cost of development:** \$ 75,504,560.00
- d. **Revised cost of development:** \$76,634,905.00
- e. **The total contribution payable revised** (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$766,349.05

DEVELOPMENT STATISTICS

	S96(2) Proposal	Approved	Standard	Compliance (*)
WLEP 2012				
Site Area		8889 m ²		
FSR	2.49:1 of which 1.98:1 Residential 0.51:1 Non-residential <i>Total: 22,128m² of which 17,570m² residential 4,121m² retail and 437m² childcare</i> <i>(excluding affordable housing component of 702.8m² and heritage floor space of 324m²)</i>	2.36:1 of which 1.87:1 Residential 0.49:1 Non-residential <i>Total: 20,964m² of which 16,634m² residential, 3,885m² retail, 51m² commercial and 394m² childcare</i> <i>(excluding affordable housing component of 665m² and heritage floor space of 324m²)</i>	2.5:1 (Clause 4.4A (14 a)) Residential Maximum - 1.25:1	Yes No
Height	23m to lift overrun on Hercules St North; 23.5m to lift overrun on Hercules St South; 30.7m to lift overrun on Oscar St North; 23.9m to lift overrun on Oscar St South; and 10.2m to clerestory on Albert Ave.	23.0m to lift overrun on Hercules St North, 22.9m to lift overrun on Hercules St South, 27.1m to lift overrun on Oscar St North, 23.3m to lift overrun on Oscar St South, 10.2m to clerestory on Albert Ave	20m (Hercules Street and Oscar Street - Map Q), 9m (Albert Ave - Map J)	No

	S96(2) Proposal	Approved	Standard	Compliance (*)
WDCP & RFDC				
Northern Setback (Northern Oscar St Building)	14.5m for LG and G level, 12.9m for 1 st and 2 nd level, 13.8m for 2 nd to 5 th level 19.5m for level 6 23.0m for level 7	14.5m for LG and G level, 20.5m for 1 st and 2 nd level, 22.3m for 2 nd to 5 th level 28.0m for level 6 31.7m for level 7	3m + 1.2 / storey: 4.2m for 1 st storey, 5.4m for 2 nd storey, 6.6m for 3 rd storey, 7.8m for 4 th storey, 9m for 5 th storey, 10.2m for 6 th storey, 11.4m for 7 th storey	Yes, acceptable
Eastern Setback (Northern Hercules St building)	0m for G, and 1 st , 2 nd level 2.0m for 3 rd & 4 th level 6.0m for 5 th level 8.5m for 6 th level	0m for G, and 1 st level 2.0m for 2 nd , 3 rd & 4 th level 6.0m for 5 th level 8.5m for 6 th level	Consistent	Yes, acceptable
Western Setback (Northern Oscar St building)	1.2m for G level 0m for 1 st , 2 nd and 3 rd level 2.6m for 4 th , 5 th , 6 th and 7 th level 5.1m for 8 th level	1.2m for G level 0m for 1 st , 2 nd and 3 rd level 2.6m for 4 th , 5 th , 6 th and 7 th level 4.6m for 8 th level	Consistent	Yes
Southern Setback (Southern Oscar St building to adjoining site at 17 Albert Ave)	0m on all levels	0m on all levels	RFDC: Allow zero building separation in appropriate contexts, such as in urban areas between street wall building types (party walls).	Yes
Southern Setback (Albert Ave Building)	0m - 1m at ground floor (childcare / business premises) 0m on 1 st & 2 nd level	0m - 1m at ground floor (childcare / business premises) 0m on 1 st & 2 nd level	Consistent	Yes
Centre courtyard, between Hercules St & Oscar St buildings (RFDC)	12.2m (up to 4 th level) 15.2m on 5 th level 18.0m on 6 th and 7 th level	12.2m (up to 4 th level) 15.2m on 5 th level 18.0m on 6 th and 7 th level Note: Podium on Level 1	RFDC: 12 metres between buildings (up to 4 storeys above podium) 12 metres between buildings (storeys 5 to 8)	Yes

	S96(2) Proposal	Approved	Standard	Compliance (*)
Open Space and communal areas (D.2.9)	60% and >5m wide outdoor areas with appropriate facilities at ground level and on roof 204 units at least 10m ² 12 units have 9m ² 6 units have 8m ² 1 unit has 7m ²	60% and >5m wide outdoor areas with appropriate facilities at ground level and on roof 199 units at least 10m ² 15 units have 9m ² 2 units have 8m ² 1 unit has 7m ²	Ranges from 50% of site area for 2 levels of residential, to 60% of site area for 7 levels of residential. 3 hours solar access; Balconies: min 10 m ² & 2m wide	Yes, acceptable (92% compliance)
Mix of units & size (RFDC)	15 x Studios 83 x 1 bedrooms 70 x 2 bedrooms 41 x 3 bedrooms 4 x 4 bedrooms (total of 213 units)	21 x Studios 97 x 1 bedrooms 67 x 2 bedrooms 30 x 3 bedrooms 2 x 4 bedrooms (total of 217 units)	0bedrooms ~ 38.5m ² + 1bedrooms ~ 50m ² + 2bedrooms ~ 70m ² + 3bedrooms ~ 95m ² +	Yes
Adaptable housing (Part C.6.3 of WDCP)	112 adaptable units	109 adaptable units	50% of dwellings (shop top housing) equals: 109 adaptable units	Yes
Affordable housing	702.8m ² (2 studios, 3 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 3.8m² in cash contribution)	665.36m ² (2 studios, 2 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 31.36m ² in cash contribution)	4% of GFA	Yes

	S96(2) Proposal	Approved	Standard	Compliance (*)
Car parking	<p><i>Total of 444 car parking spaces</i></p> <p>207 residential car parking spaces</p> <p>48 residential visitor car spaces + 2 residential car-share spaces; (34 accessible)</p> <p>171 commercial/retail car spaces</p> <p>8 car spaces for employees of childcare 8 car spaces for drop-off and pick-up</p>	<p><i>Total of 435 car parking spaces</i></p> <p>207 residential car parking spaces</p> <p>49 residential visitor car spaces (33 accessible)</p> <p>162 retail car spaces</p> <p>7 car spaces for employees of childcare 7 car spaces for drop-off and pick-up</p>	<p>Shop Top Housing: 1 space/ dwelling (other than studios) 0.5 spaces / dwelling (Studio)</p> <p>Visitor spaces: 1 per 4 dwellings 1 in 4 adaptable dwellings to have an accessible car space</p> <p>Retail Shop: 1 space per 25m²</p> <p>Childcare: 8 car spaces for 16 employees of childcare & 8 required for 79 children (childcare drop off / pick-up)</p>	Yes, acceptable
Bicycle parking	<p><u>Residential</u> 18 bike rails 30 bike lockers</p> <p><u>Retail</u> 28 bike rails 22 bike lockers</p> <p><u>Office / Business</u> n/a</p>	<p><u>Residential</u> 20 bike rails 28 bike lockers</p> <p><u>Retail</u> 24 bike rails 22 bike lockers</p> <p><u>Office / Business</u> 0 bike rails 1 bike locker</p>	<p><u>Residential</u> Rail – 1 per 12 dwellings Lockers -1 per 10 dwellings <u>Retail</u> Rail - 1 per 150m² Lockers -1 per 450m² <u>Office / Business</u> Rail - 1 per 600m² Lockers -1 per 2,500m²</p>	Yes
Motorcycle	21 spaces	21 spaces	1 per 25 car spaces (17 motorcycle spaces required)	Yes
Landscaping	<p>Extensive landscaping provided on the residential podium, and roof top terraces.</p> <p>46% of rooftop open space is vegetated.</p>	<p>Extensive landscaping provided on the residential podium, and roof top terraces.</p> <p>50% of rooftop open space is vegetated.</p>	A minimum of 20% of rooftop open space is to be provided as vegetated area.	Yes

(*) Compliance is assessed in the context of the approved statistics of DA-2014/445. The proposal remains compliant with maximum FSR for the site. In regard to height, the proposed development continues to be non-compliant with the maximum height of building development standard contained in Clause 4.3 of WLEP 2012. A Clause 4.6 was originally submitted with the application and the justification continues to be valid and acceptable taking into account that the proposed modifications do not result in substantial changes to the approved plans in terms of context and neighbourhood character.

Internal	
Heritage	<p>Council's Heritage Architect reviewed the plans and made the following comments:</p> <p><i>"The subject site includes an item of local heritage significance identified in WLEP 2012, located on the corner of Victoria Avenue and Hercules Street. The Section 96 modifications, which include an increase in height of (3.6m) of the Oscar Street Building North to enable the provision of communal roof-top facilities, and the upper level setbacks of this building to Victoria Avenue will be reduced whilst the ground level setback remains unchanged with the proposed plaza remaining unchanged. The height of the Hercules Street Building South and Oscar Street Building South will have an increase of 600mm for the lift overrun in the centre of the buildings.</i></p> <p><i>In terms of heritage impact on the adjacent local heritage item, the revised massing has been brought further forward to the North on the upper levels. However the proposed piazza at the North Western corner of the development site is of similar size at street level which allows an appropriate viewing corridor to the L.H.I., opening up views to the heritage item from the West in Victoria Avenue, whilst the new development will form a contemporary backdrop to the local heritage item.</i></p> <p><i>As noted in the attached Heritage Impact Statement, the conservation and relocation of boundary stone wall along Victoria Avenue and Hercules Street, and associated plantings will also enhance the setting of the heritage item when viewed from Victoria Avenue, along with the opening up of enclosed verandahs and loggia spaces. The plaza area and elevated outdoor terrace allows for a direct connection to the ground level of the heritage item.</i></p> <p><i>The original curtilage of the local heritage items has been compromised in the past by developments which have encroached on its physical fabric and landscape setting. Whilst new development is set back behind the item, views from the west will be opened up by the removal of the existing houses and the creation of the plaza as mentioned above.</i></p> <p><i>The proposed Section 96 modification is not therefore considered to diminish the heritage signification of the heritage item."</i></p>

Internal (Cont.)	
Engineering	<p>Council's Engineer reviewed drawing DA2.23 Driveway Sections and advised that</p> <p><i>"They are not satisfactory. As per discussions with the applicant representatives, the footpath on Hercules shall be reconstructed to full width footpath. This will affect levels and gradients. These sections shall be revised to show this."</i></p> <p>Consequently, drawing DA2.23 is excluded from the recommendation for approval.</p>
External	
SEPP 65	<p>The proposed development is designed by a qualified architect. A Design Verification Statement has been submitted.</p> <p>The application has been referred externally to an independent Urban Design consultant to ensure that the proposal continues to comply with SEPP 65 principles. Further discussion on how the proposed modified design meets the SEPP 65 guidelines is detailed in the 'Assessment' section below.</p>

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) 	✓
	<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) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
(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 	✓
	<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	
	• Context & setting	✓
	• Access, transport & traffic, parking	✓
	• Servicing, loading/unloading	✓
	• Public domain	✓
	• Utilities	✓
	• Heritage	✓
	• Privacy	✓
	• Views	✓
	• Solar Access	✓
	• Water and draining	✓
	• Soils	✓
	• Air & microclimate	✓
	• Flora & fauna	✓
	• Waste	✓
	• Energy	✓
	• Noise & vibration	✓
	• Natural hazards	N/A
	• Safety, security crime prevention	✓
	• Social impact in the locality	✓
	• Economic impact in the locality	✓
	• Site design and internal design	✓
	• Construction	✓
	• Cumulative impacts	✓
(c)	The suitability of the site for the development	
	• Does the proposal fit in the locality?	✓
	• Are the site attributes conducive to this development?	✓
(d)	Any submissions made in accordance with this Act or the regulations	
	• Public submissions	N/A
	• Submissions from public authorities	N/A
	Comment: Following notification, no submissions have been received.	
(e)	The public interest	
	• Federal, State and Local Government interests and Community interests	✓

ASSESSMENT

Whether the Proposal is substantially the Same Development

The proposed modification is considered to be substantially the same development as that which was originally approved. The changes affect the whole development, however are considered to generate minimal change in the impacts of the development. The development continues to provide an acceptable architectural solution for the site. The modifications do not diminish or detract from the design quality or compromise the design intent of the development for which Sydney East Joint Regional Planning Panel granted consent.



Birdseye view from Victoria Avenue towards the amended development

Architectural form and SEPP 65 - Design Quality of Residential Flat Development

The State Environmental Planning Policy 65 – Design Quality of Residential Flat Development (SEPP 65) was introduced in 2002. It aims to improve the design quality of residential flat buildings in NSW. It contains principles for good design and provides guidance for evaluating the merit of design solutions.

The proposal was accompanied by a design verification prepared by George Revay demonstrating that, in his opinion, the design quality principles set out in Part 2 of SEPP 65 - Design Quality of Residential Flat Development are achieved and surpassed.

The five perimeter block buildings are proposed to be amended to accommodate 213 apartments (217 approved), approximately 4000m² of commercial/retail and a childcare centre; both the approved childcare centre and the retail areas are proposed to increase in size. While there is no change proposed to the built form or scale of the Albert Avenue building, the proposal seeks to make amendments to the height of the other buildings to accommodate changes to the lift overruns and lift core (on the Oscar Street buildings) in order to provide access for residents to rooftop facilities. The change to the height of these buildings is not readily visible from the surrounding streets. The proposed changes to the height of the buildings generally maintain the built form as approved.

The modification also proposes that the North Oscar building is proposed to be extended at upper floor levels by 8m to the North, towards Victoria Avenue. The scale and height of the awning above the commercial entry has been designed to line up with the height of the Heritage Building.

In addition to the approved landscaping across the site, it is now proposed to provide landscaping on the rooftop of the North Oscar building. This landscaping will further enhance the amenity on the site and a child friendly play-area is proposed to be incorporated into this roof top area.

The proposed amendments to the internal layout have been designed to comply with access to sunlight, natural ventilation, visual and acoustic privacy and storage. The general layout across the site is similar to that approved. The applicant argues that market research into demographic and demand determines the apartment mix and as such the mix is slightly changed when compared with approved. The current application includes fewer dwellings, while incorporating minor alterations to the dwelling mix within the development. The proposed amendments include additional adaptable apartments (taking the total to 112), as well as one additional affordable dwelling. The range of apartments continues to meet SEPP65 requirements for housing diversity and social interaction.

The amendments are consistent with SEPP 65 principles of context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction as well as aesthetics.

A separate report by Steve King, Consultant Architect, demonstrates compliance with SEPP65 with respect to solar access and cross ventilation. Moreover, Independent urban design consultant Architectus has been engaged by Willoughby Council to carry out an assessment of the modification application against the SEPP 65 principles and the ADG. Noting that the proposed modifications to the building facades improve the visual impact of the development, Architectus concluded that generally the proposed modifications are acceptable. The set of design recommendations made by the consultant were welcomed by the applicant and changes were incorporated into the amended plans to consolidate a number of apartments to improve solar access and to include a suitable children's playground into open space on the North Oscar Street building roof terrace. More, conditions are recommended to further improve the privacy for some of the apartments.

NSW Apartment Design Guide (NSW ADG)

In order to help improve housing affordability and supply, a comprehensive review of SEPP 65 was finalised in 2015. It resulted in a number of changes to the policy and in superseding The Residential Flat Design Code by the Apartment Design Guide.

SEPP 65 establishes nine design quality principles to be applied in the design and assessment of residential apartment development. The Apartment Design Guide provides greater detail on how residential development proposals can meet these principles through good design and planning practice. The Apartment Design Guide provides consistent planning and design standards for apartments across the State and allows for alternative solutions where the objectives are addressed.

The subject modification application is established by the original approval, so the consideration of the SEPP 65 and the Apartment Design Guide focuses only on the proposed changes to the approved development.

The reduction in number of residential lobbies introduces a non-compliance with the standard of a maximum of eight units sharing a circulation core. On balance the modified design is considered acceptable and satisfies the design objectives for common circulation spaces and, generally, the proposal is not inconsistent with the objectives and requirements of the Apartment Design Guide.

SEPP 65 Amenity Compliance verification was provided by Steve King, of the Faculty of the Built Environment, University of NSW, providing an assessment of the amended proposal in regard to solar access and natural ventilation requirements. In regard to solar access, the Apartment Design Guide design criteria nominates that a minimum of 70% of apartments should receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter. The proportion of apartments which may be deemed to comply with the performance

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requirements of the solar access control is 163 apartments from a total of 214, being 76.2%. This is improved compared with the originally approved DA, where 75.1% of apartments complied.

In regard to natural ventilation, the proportion required by the Apartment Design Guide design criteria is a minimum of 60%. The overall number of apartments which may be characterized as cross-ventilated is 142 out of the total of 214, being 66.1%. The proposed development therefore complies with the relevant control for natural ventilation.

Comments were also provided by 'Architectus' and amended plans incorporated recommended changes. The modified scheme provides consistency with the design principles and 'rules of thumb' of the Apartment Design Guide and in this regard, subject to conditions, the proposal is assessed to be satisfactory.

Willoughby Local Environmental Plan 2012 (WLEP 2012)

The subject site is zoned B4 Mixed Use under the provisions of WLEP 2012 and the proposed works are permissible on site with JRPP's consent.

The development continues to be accommodated within the five (5) perimeter buildings located above an integrated basement car park. The proposal continues to include the adaptive reuse and restoration of the existing heritage building. In this regard, a Schedule of Essential Conservation Works to External Fabric of 256 Victoria Avenue, Chatswood was documented in the amended Heritage Impact Statement prepared by NBRs and Partners.

The proposal exceeds the maximum height of buildings standard as specified in Clause 4.3A of WLEP 2012 and the maximum floor space ratio standard for housing component as specified in Clause 4.4A(14) of WLEP 2012. In regard to the FSR, the residential gross floor area is proposed to be increased but the number of apartments is proposed to decrease. Taking into account the original consent and the proportional increase in FSR both for residential, commercial and childcare, the density continues to meet the objectives of the zone and the desired character of the locality.

The height of the Oscar Street Building North will be increased to allow for the provision of communal roof-top facilities and extension of the lift to the roof. As a result the overall height of the building to the top of the lift overrun will increase, however, the change will not significantly add to the bulk or scale of the building as viewed from the surrounding streets.

Heritage Item

The setbacks to Victoria Avenue of the upper levels of the Hercules Street North building will be reduced. The reduction in setbacks does not have an unreasonable impact on the heritage item or on the streetscape. The plaza area and elevated outdoor terrace allow for a direct connection to the ground level of the heritage item. Views from the west will be opened up by the removal of the existing houses and the creation of the plaza. Council's Heritage Architect reviewed the Statement of Heritage Impact prepared by NBRs & Partners Pty Ltd together with the amended plans and concluded that the proposed Section 96 modification will not diminish the heritage significance of the heritage item.

Traffic and Parking

In regard to traffic and parking, as the proposed modification includes additional residential FSR, an increase in the retail floor area and an increase in the size of the child care centre the modifications will generate the need for additional off-street car spaces. Therefore the application is proposing an increase in the car parking provision from 435 spaces to 444.

A Traffic and Parking Assessment Report, prepared by Varga Traffic Planning has been submitted. Taking into account the minimal increase in car spaces, the proposal is unlikely to have adverse traffic or parking impacts. As previous modification DA-2014/445/A amended Condition No. 133 On-site Car parking to provide flexibility in car parking allocation, this condition is now proposed to be modified further to reflect the currently proposed parking changes.

Changes to childcare

The business premises on the corner of Albert Avenue and Hercules Street is proposed to be incorporated into the floor plan of the childcare centre. The proposal eliminates potential conflicts and improves safety for children. The increase in floor area of the childcare generates a slight increase in the number of children, staff and car parking associated with the childcare as follows:

Proposed S96	Approved DA
The proposed capacity of the childcare centre is of maximum 79 children, of which: <ul style="list-style-type: none">• 16 children between zero (0) and two (2) years of age,• 15 children aged two (2) and three (3) years, and• 48 children aged between three (3) and five (5).	The approved capacity of the childcare centre is of maximum 67 children, of which: <ul style="list-style-type: none">• 16 children between zero (0) and two (2) years of age,• 15 children aged two (2) and three (3) years, and• 36 children aged between three (3) and five (5).
16 employees	14 employees
8 car spaces for employees 8 car spaces for drop-off and pick-up	7 car spaces for employees 7 car spaces for drop-off and pick-up

A revised Childcare Centre Assessment Report prepared by Revay & Unn Architects reviews the layout of the child care centre as proposed to be modified against Section G8 of the WDCP 2006 and the Education and Care Services National Regulation 2011, Part 4.3 - Physical Environment. The increase in size of the childcare meets the regulations. While most relevant conditions in DA 2014/445 regarding the childcare continue to apply, the conditions of consent that reflect the size are proposed to be modified to reflect the change.

Capital Investment Value

A Registered Quantity Surveyor's Detailed Cost Report accompanied the modification. The Indicative Capital Investment Value Estimate was revised in accordance with the Environmental Planning and Assessment Regulation 2000 (Reg 25J) - Section 94A Levy by Michael M. Dakhoul (MMDCC) to be \$76,634,905.00. Consequently, the Section 94A Contribution Condition is proposed to be modified accordingly.

Sustainability

The proposed modifications do not result in substantial change in relation to sustainability and therefore, the proposed modifications are considered acceptable in this regard.

Benefiting Easement for 17 Albert Avenue

In order to provide clarity, the applicant requested minor re-wording of Condition 77 (right of carriageway benefiting 17 Albert Avenue). The Condition is proposed to be modified accordingly.

Affordable Housing

The site is located in Special Area 3 in WLEP 2012 identified to be subject to the provisions of Clause 6.8 for provision of affordable housing on the site. The original approval provided that the affordable housing requirement in development should be met via provision of units and a monetary contribution.

As the current proposed modification is increasing the gross floor area, the additional 4% residential floor space part of the affordable housing units increases as well.

As a consequence, the recommendation also includes revision of the condition to meet the affordable housing requirement.

CONCLUSION

The modification application is considered to be substantially the same development as that which was originally approved and has been assessed in accordance with the provisions of Section 79(C) of the EP&A Act, WLEP 2012, WDCP and other relevant codes and policies.

The proposal will not result in any adverse impacts on the amenity or character of its surroundings and will not have any adverse economic impacts given that the changes are proposing a reasonable and proportional increase in all major uses on site (residential, retail, childcare). The changes will not adversely impact on the heritage significance of the heritage item which will continue to be retained and adaptively reused within the development.

As such, the development, subject to the proposed modifications will continue to provide an acceptable planning outcome for the site. Approval of the modification application is recommended.

OFFICER'S RECOMMENDATION

THAT the Joint Regional Planning Panel approves the development subject to the attached conditions and issue consent for the application DA-2014/445/B for *Modifications of the approved plans including changes to built form, to apartment layouts and numbers and increase in floor space* at 36-50 Hercules Street and 256-260 Victoria Avenue, Chatswood NSW 2067.

SCHEDULE OF CONDITIONS

Development Consent 2014/445 be modified as follows:

- A. Conditions No. 1, 2, 3, 16, 19, 36, 77, 133, 137 and 138 are modified to read as follows:

1. Approved Plan/Details

The development must be in accordance with the following plans:

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

Reference: DA-2014/445/B
 Enquiries: Ana Vissarion
 Phone: 02 9777 7656
 Availability: Available 8.30 -10 am, otherwise by appointment

Willoughby City Council

Eng. / Stormwater	12308-04, 12308-05, 12308-06, 12308-07, 12308-08	C	13 Jun 2015	23 Jun 2015	ING Consulting Engineers
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the application form and any other supporting documentation submitted as part of the application,

As modified by (DA-2014/445/B)

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped by Council	Prepared by
Architecture	DA2.01, DA2.02, DA2.03, DA2.04, DA2.10, DA2.11, DA2.15, DA2.16, DA2.21 DA2.24, AD.1, AD.2, AD.3, AD.4, AD.5	C	7 Dec 2015	17 Dec 2015	Revay & Unn
Architecture	DA2.05, DA2.06, DA2.07, DA2.08, DA2.09, DA2.13, DA2.14, DA2.17,	D	11 Mar 2016	11 Mar 2016	Revay & Unn
Architecture	DA2.12	C	07 Dec 2015	11 Mar 2016	Revay & Unn
Architecture	DA2.26	A	10 Mar 2016	11 Mar 2016	Revay & Unn

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)

Reference: DA-2014/445/B
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2. Section 94A Contributions

A monetary contribution of \$766,349.05 (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 \$76,634,905.00 at 7 September 2015 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)

Reference: DA-2014/445/B
Enquiries: Ana Vissarion
Phone: 02 9777 7656
Availability: Available 8.30 -10 am, otherwise by appointment

3. Affordable Housing Monetary Contribution

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

In this case, in addition to the affordable housing dwellings nominated, a monetary contribution for **3.8m²** of floor space is required.

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

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

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

16. Other Amendments

The proposal is to be amended in the following manner:

- (a) All the windows shown on the approved plans and sections proposed to be located on the walls with nil setbacks to 17 Albert Avenue must be obscure and not operable for the life of the development.
- (b) The structural design of the Retail and Plaza levels of the basement carpark shall allow for future connections with a potential car park located at 17 Albert Avenue, in the north-eastern corner of no 17 Albert Avenue site. The areas fronting the potential access can be used for Residential Visitor car spaces at both levels, until a Construction Certificate is granted for development at 17 Albert Avenue, making use of the access. From that moment forward, the area fronting the access must be kept clear of any obstructions and shall be marked accordingly.
- (c) The concrete kerb at the top of the down ramp between the retail level and plaza level shall be moved back approx. 0.5 metres to allow easier access of a B99 vehicle into the retail level car park.

Reference: DA-2014/445/B
Enquiries: Ana Vissarion
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- (d) To ensure privacy for the apartments located in the North Oscar Street building, the landscaping on the western side of the north-western wraparound balconies in North Hercules Street building at Level 5 and above shall consist of species that achieve minimum 1.5m high at maturity. The landscaping shall be designed by a qualified landscape architect and the supporting structures shall be verified by an engineer in order to ensure that the landscaping acts as a privacy screen and the planter boxes and building structure are capable of supporting the plants and are provided with a suitable automatic watering system.

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

19. Affordable Housing Fittings and Finishes

The applicant is to submit to the Council details of all internal fittings and finishes of the affordable housing dwellings that are to be dedicated to Council:

Unit B204, E110,

Unit B105, Unit D105, Unit B205, Unit H105, Unit B304, C204, D204 and Unit J105.

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

(Reason: Amenity)

36. Agreement to Transfer Affordable Housing Dwellings

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

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

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

Reference: DA-2014/445/B
Enquiries: Ana Vissarion
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The affordable housing dwellings providing a total gross floor area of 699m² are to be dedicated to Willoughby City Council for the purpose of affordable housing in accordance with Clause 6.8 of Willoughby Local Environmental Plan 2012 as outlined below:

Unit B105 and Unit D105 – all studio apartments,
Unit E110, B205, C204 and Unit H105 – all 1 bedroom apartments,
Unit B204, B304 and Unit D204 – all 2 bedroom apartments, and
Unit J105 - 3 bedroom apartment.

The units above must have a total of 9 car spaces on title, in accordance with the requirements of WDCP Part C.6 – Access, Mobility and Adaptability.
(Reason: Ensure compliance)

77. Benefiting Easement

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

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

133. On-site Car Parking

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

207 residential spaces;
48 residential visitor spaces;
2 residential car-share spaces;
171 commercial/retail spaces;
8 childcare spaces for employees;
8 childcare spaces for drop-off and pick-up.

A minimum of 1 residential car space shall be allocated to minimum 51 apartments consisting of 1 bedroom. A minimum of 1 residential car space shall be allocated to each 2 bedroom apartments, to each 3 bedroom apartments and to each 4 bedroom apartments. The requirements of Condition no 36 of this consent are not affected by the above allocation and must still be met.

The maximum number of car spaces allocated to any apartment must be 2.
All residential car spaces must be allocated to the apartments.

Reference: DA-2014/445/B
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Availability: Available 8.30 -10 am, otherwise by appointment

The above car spaces allocation must be reflected in any subsequent subdivision of the development. The car-share spaces and the residential visitor car spaces shall form part of common property.

The residential visitor spaces, the car-share spaces, the commercial spaces and the retail spaces are to be sign posted accordingly and be accessible to tenants/visitors at all times. The building management plan of the development must include provisions for the dedicated car share spaces to be used by car share scheme/provider/s.

A minimum of 18 bike rails and 30 bike lockers should be provided for residential and 28 bike rails and 22 bike lockers should be provided for commercial/retail.

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

A minimum of 2 electric car charging stations shall be provided within the basement car park (one within the commercial/retail spaces and one within the residential visitor car spaces).

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

137. Car Parking Spaces - Childcare

The eight (8) car parking spaces for drop-off / pick-up for the childcare centre located at Level 1 must be signposted for 15 min parking between the hours of 7am and 9:30am and between 3:30pm and 7:00pm, for the drop-off and pick-up of children. These spaces should be clearly marked '*childcare centre only*' during drop-off and pick-up times to reflect that they are for the exclusive use of the childcare users within the peak hours of the centre.

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

Reference: DA-2014/445/B
Enquiries: Ana Vissarion
Phone: 02 9777 7656
Availability: Available 8.30 -10 am, otherwise by appointment

138. Capacity of the Child Care Centre

The child care centre must have a *maximum* capacity of 79 children, of which:

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

The child care centre must have a *maximum* capacity of 16 employees.

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

(Reason: Ensure compliance)

B. Condition No 76A to be added to read as follows:

76A. Heritage Character

The heritage conservation works to 256 Victoria Avenue, Chatswood shall comply with the Schedule of Essential Conservation Works External Fabric in Appendix A as documented in the Heritage Impact Statement prepared by NBRS and Partners Pty Ltd.

C. Comply with all other Conditions of the Development Consent DA 2014/445.

Reference: DA-2014/445/B
Enquiries: Ana Vissarion
Phone: 02 9777 7656
Availability: Available 8.30 -10 am, otherwise by appointment