

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>Panel Reference</b>	2016SYE068
<b>DA Number</b>	DA-2014/445/C
<b>LGA</b>	Willoughby City Council
<b>Proposed Development</b>	<i>S96 - Inclusion of 17 Albert site to extend the childcare centre, add 13 apartments and increase onsite car parking provision and associated works</i>
<b>Street Address</b>	36-38 Hercules Street, 17 Albert Avenue & 256-260 Victoria Avenue, CHATSWOOD NSW 2067
<b>Applicant/Owner</b>	Chatswood Place Pty Ltd / Oscar Pty Ltd & Hercules Thirty Six Pty Limited
<b>Number of Submissions</b>	1
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Revised Capital Investment Value (CIV) is \$83,061,087.00
<b>List of all relevant s79C(1)(a) matters</b>	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.
<b>Is a Clause 4.6 variation request required?</b>	No
<b>Does the DA require Special Infrastructure Contributions conditions (S94EF)?</b>	No
<b>Have draft conditions been provided to the applicant for comment? Have any comments been considered by council in the assessment report?</b>	Yes
<b>List all documents submitted with this report for the Panel's consideration</b>	Architectural Plans - Supporting Documentation
<b>Recommendation</b>	Approval
<b>Report prepared by</b>	Ana Vissarion - Development Planner
<b>Report date</b>	24 Aug 2016

**JRPP NO:** 2016SYE068  
**COUNCIL:** WILLOUGHBY CITY COUNCIL  
**ADDRESS:** 36-38 Hercules Street, 17 Albert Avenue &  
256-260 Victoria Avenue, CHATSWOOD NSW 2067  
**DA NO:** DA-2014/445/C  
**ATTACHMENTS:** 1. PLANS AND ELEVATIONS  
2. NOTIFICATION MAP  
**DATE:** 10 OCT 2016

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**RECOMMENDATION:** APPROVAL  
**LOCATION:** 36-38 HERCULES STREET, 17 ALBERT AVENUE & 256-260 VICTORIA AVENUE, CHATSWOOD NSW 2067  
**OWNER:** OSCAR PTY LTD AND HERCULES THIRTY-SIX PTY LIMITED  
**APPLICANT:** CHATSWOOD PLACE PTY LTD  
**PROPOSAL:** S96 - INCLUSION OF 17 ALBERT AVENUE SITE TO EXTEND CHILDCARE CENTRE, ADD 13 APARTMENTS AND INCREASE ONSITE CAR PARKING PROVISION AND ASSOCIATED WORKS.  
**DATE OF LODGEMENT:** 16-JUN-2016  
**REPORTING OFFICER:** ANA VISSARION

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## EXECUTIVE SUMMARY

The proposed 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 changes include:

- Inclusion of 17 Albert Avenue into the site area, being an additional area of 557m<sup>2</sup> and resulting in a total site area of 9446m<sup>2</sup>;
- Addition of 13 residential units on the additional site area that will increase the number of residential units from 213 to 226;
- Extension of the approved childcare centre (fronting Albert Ave) and increase the number of children to be accommodated from 79 to 98;
- Amendments to car parking allocation and increase in the total number of car spaces from 444 to 473;
- Internal modifications to the approved residential units within the development;

- Minor changes to the approved floor plans, including 18m<sup>2</sup> increase of retail floor area to a total of 4139m<sup>2</sup>;
- Minor changes to the heritage building, including retention of the currently enclosed verandas and addition of an awning over the outdoor dining area; and
- Modification of approved stormwater system.

The Section 96(2) modification application is reported to Sydney East JRPP for determination as the original application determined by the Panel met the relevant criteria to be considered regional development under Schedule 4A of the EP&A Act 1979.

### NEIGHBOUR NOTIFICATION

The modification application was on notification in accordance with Part B.4 of the Willoughby Development Control Plan (WDCP) from 24 June to 8 July 2016.

Council received one submission on behalf of Northern Sydney Local Health District (NSLHD) with suggestions for health-conscious improvements to the proposal, including a request for additional bike-locks, community garden and upgrading of adjoining public cycling route and request for a restriction on advertising of fast foods and sugary drinks. These suggestions are addressed in the Neighbour Notification Issues below.

### EXISTING BUILDING AND SITE CONTEXT

The site is located at 36-50 Hercules St and 256-260 Victoria Ave, Chatswood and incorporates street frontages to Hercules Street, Albert Avenue, Oscar Street and Victoria Avenue. The site is bordered by the Chatswood central business district 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 original Development Consent did not include the property at 17 Albert Avenue Chatswood located at the corner of Albert Avenue and Oscar Street. The applicant has recently acquired the property at 17 Albert Avenue which was previously isolated by the approved development.

### RELEVANT HISTORY

- The original consent development was granted by JRPP on 19 October 2015.
- DA-2014/445/A for *Modification of Condition No. 133 On-site Car Parking* was approved by Council on 23 December 2015. Since then, Private Building Certifiers have been appointed as the PCA and the demolition works commenced.
- 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* was approved by JRPP on 30 March 2016.
- DA-2016/106 for *Construction of two storey commercial/retail premises with car parking and associated works* at 17 Albert Avenue was approved by Council on 27 May 2016. Since then, the excavation works commenced at this property.

### CONTROLS AND CLASSIFICATION

- i) Willoughby LEP 2012: Yes

- a. **Heritage Item and Heritage Conservation Area (HCA):** 256 Victoria Avenue - Chatswood Community Nursing Home formerly Ku-ring-gai Community Hospital – is a local heritage item listed in Schedule 5 of WLEP 2012. The site is also opposite to the South Chatswood Heritage Conservation Area located to the south of Albert Ave.
- b. **Zoning:** B4 – Mixed Use
- c. **Height:** 9m and 20m control (10.2m and 27.1m approved)
- d. **FSR:** overall 2.5:1, with maximum allowable Residential component of 1.25:1 (*Clause 4.4A (14 a)*) (2.49:1 approved overall, 1.98:1 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;
- 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. Previous cost of development: \$76,634,905.00
- d. Revised cost of development: \$83,061,087.00
- e. The total contribution payable revised (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$830,610.87

Internal	
Heritage	<p>Council's Heritage Architect reviewed the plans and made the following comments:</p> <p>(i) <i>The retention of the verandah fenestration is not considered to have an adverse heritage impact because the form of the bay remains, and its restoration can still occur in the future. The retention of the fenestration on the south-west ground floor will ensure that the 'Arts and Crafts' features of the building are still legible.</i></p> <p>(ii) <i>The retracting awning will not impact upon significant views of the building, and will allow access to inclement weather. It is noted that it is separated from the heritage item but will provide a transition element between the approved new building to the south and the heritage item. It is recommended that it is painted a dark recessive colour so as to mitigate visual impact.</i></p> <p>(iii) <i>The subject site i.e. the additional parcel of land at No. 17 Albert Avenue, is located opposite the South Chatswood Conservation Area on the southern side of Albert Avenue and within the vicinity of the heritage item at No. 256-260 Victoria Avenue. It is considered that the modified development will not adversely impact upon the heritage item given its setback and scale, and its impact on the neighbouring</i></p>

	<i>Conservation Area is also acceptable given the proposed scale form, materials and detailing of the mixed-use development is an extension of the existing approved development to the east. The external façade features planters, recessed feature windows to maintain a street frontage integrated with adjoining development, to maintain a continuous street wall.</i>
Engineering	Council's Engineer reviewed the stormwater drawings and advised revisions. Once the sections of the drawings in question were amended, Council's Engineer recommended approval subject to conditions.
Building	No additional conditions or comments were provided.
SEPP 65	The proposed development is designed by a qualified architect and endorsed by a SEPP 65 Amenity Compliance Report prepared by Steve King - Consulting Architect. The modified design meets the SEPP 65 guidelines as detailed in the 'Assessment' section below.

## **ASSESSMENT**

### **Considerations Under S.96(2) EP&A Act - Other modifications**

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

(a)	it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	✓
	<p><i>Comments:</i></p> <p>The proposed modifications fall within the approved building footprint and add the previously isolated parcel of land at 17 Albert Avenue into the development site.</p> <p>Legal advice on the lawfulness of the modification application was submitted by the applicant. The applicant's Legal Advice argues that in <i>Scrap Realty Pty Ltd v Botany Bay City Council</i> [2008] NSWLEC 333, Preston CJ considered whether S96(2) of the Act extended to permit modification of a consent to include additional land and found that such a modification is permitted if the development as modified remains substantially the same for which consent was originally granted.</p>	

**Considerations Under S.96(2) EP&A Act - Other modifications****Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

	<p>The amended development will remain a mixed use development containing retail premises, business premises, child care centre and shop top housing. On a quantitative assessment of the proposed modifications, the additional site area represents an approximately 6% increase to the original site area.</p> <p>The applicant's Legal Advice concludes that the development is substantially the same as the approved development. Having regard to the applicant's Legal Advice along with the plans and documentation provided and the precedent established by the L&amp;E Court cases, the proposed modification of the approved development will result in a development that is substantially the same as the development for which consent was originally granted.</p>	
(b)	it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	n/a
(c)	<p>it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require, or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</p>	✓
	<p><i>Comments:</i></p> <p>The application has been notified in accordance with WDCP.</p>	
(d)	it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	✓
	<p><i>Comments:</i></p> <p>Notification of the application attracted one submission. The issues raised in this submission are further discussed under the Notification Issues section of this report.</p>	

## RELEVANT DEVELOPMENT STATISTICS (\*)

	S96(2) Proposal	Approved	Standard	Compliance
<b>WLEP 2012</b>				
Site Area	9446 m <sup>2</sup>	8889 m <sup>2</sup>	n/a	n/a
FSR	2.50:1 of which	<b>2.49:1</b> of which	2.5:1 (Clause 4.4A (14 a))	Yes
	2.00:1 Residential  0.50:1 Non-residential  18,914m <sup>2</sup> residential, 4,139m <sup>2</sup> retail and 525m <sup>2</sup> childcare  Total: 23,578m <sup>2</sup>  <i>(excluding affordable            housing component of            756.56m<sup>2</sup> and heritage            floor space of 415m<sup>2</sup>)</i>	1.98:1 Residential  0.51:1 Non-residential  17,570m <sup>2</sup> residential 4,121m <sup>2</sup> retail and 437m <sup>2</sup> childcare  Total: 22,128m <sup>2</sup>  <i>(excluding affordable            housing component of            702.8m<sup>2</sup> and heritage            floor space of 324m<sup>2</sup>)</i>	Residential Maximum - <b>1.25:1</b>	No, but acceptable.
Height	23.1m to lift overrun on Hercules St North; 23.6m to lift overrun on Hercules St South; 30.8m to lift overrun on Oscar St North; 24m to lift overrun on Oscar St South; and  10.3m to clerestory on Albert Ave  On 17 Albert Ave, 21.11m on Oscar St South; 10.91m where it adjoins business with shop-top at Oscar St South; 10.3m to clerestory for the majority of the block fronting Albert Ave	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.	20m (Hercules Street and Oscar Street - Map Q),  9m (Albert Ave - Map J)	No, but acceptable.  No, but acceptable.
Mix of units & size (RFDC)	16 x Studios 76 x 1 bedrooms 82 x 2 bedrooms 48 x 3 bedrooms 4 x 4 bedrooms <b>(total of 226 units)</b>	15 x Studios 83 x 1 bedrooms 70 x 2 bedrooms 41 x 3 bedrooms 4 x 4 bedrooms <b>(total of 213 units)</b>	0bedrooms ~ 38.5m <sup>2</sup> + 1bedrooms ~ 50m <sup>2</sup> + 2bedrooms ~ 70m <sup>2</sup> + 3bedrooms ~ 95m <sup>2</sup> +	Yes

Adaptable housing (Part C.6.3 of WDCP)	113 adaptable apartments	112 adaptable units	50% of dwellings (shop top housing) equals: 109 adaptable units	Yes
Affordable housing	756.56m <sup>2</sup> (2 studios, 3 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 57.56m <sup>2</sup> in cash contribution)	702.8m <sup>2</sup> (2 studios, 3 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 3.8m <sup>2</sup> in cash contribution)	4% of GFA	Yes
Car parking	473 car parking spaces  218 residential car parking spaces  52 residential visitor car spaces (including 2 car share spaces)  31 accessible car spaces	Total of <b>444 car parking spaces</b>  207 residential car parking spaces  48 residential visitor car spaces + 2 residential car-share spaces; (34 accessible)	<b>Shop Top Housing:</b> 1 space/ dwelling (other than studios) & 0.5 spaces / dwelling (Studio)  <b>Visitor spaces:</b> 1 per 4 dwellings 1 in 4 adaptable dwellings to have an accessible car space	Yes, acceptable
	182 retail car spaces (incl. courier)  11 car spaces for employees of childcare 10 car spaces for drop-off and pick-up	171 commercial/retail car spaces  8 car spaces for employees of childcare 8 car spaces for drop- off and pick-up	<b>Retail Shop:</b> 1 space per 25m <sup>2</sup>  <b>Childcare:</b> 8 car spaces for 16 employees of childcare & 8 required for 79 children (childcare drop-off / pick-up)	Yes, acceptable
Bicycle parking	<u>Residential</u> 18+1 bike rails 30 +1 bike lockers  <u>Retail</u> 28+1 bike rails 22+1 bike lockers  <u>Office / Business</u> n/a	<u>Residential</u> 18 bike rails 30 bike lockers  <u>Retail</u> 28 bike rails 22 bike lockers  <u>Office / Business</u> n/a	<u>Residential</u> Rail – 1 per 12 dwellings Lockers -1 per 10 dwellings <u>Retail</u> Rail - 1 per 150m <sup>2</sup> Lockers -1 per 450m <sup>2</sup>  <u>Office / Business</u> Rail - 1 per 600m <sup>2</sup> Lockers -1 per 2,500m <sup>2</sup>	Yes
Motorcycle	21 spaces	21 spaces	1 per 25 car spaces	Yes



(\*) Only the relevant amended statistics are mentioned in the table above as compliance is assessed in the context of the approved statistics of DA-2014/445.

### 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"> <li>State Environmental Planning Policies (SEPP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Regional Environmental Plans (REP)</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Local Environmental Plans (LEP)</li> </ul>	✓
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> <li>Draft State Environmental Planning Policies (SEPP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Regional Environmental Plans (REP)</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>Draft Local Environmental Plans (LEP)</li> </ul>	✓
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> <li>Development control plans (DCPs)</li> </ul>	✓
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> <li>Clause 92 EP&amp;A Regulation- Demolition</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li> </ul>	N/A
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> <li>Context &amp; setting</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Access, transport &amp; traffic, parking</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Servicing, loading/unloading</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Public domain</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Utilities</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Heritage</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Privacy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Views</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Solar Access</li> </ul>	✓
	<ul style="list-style-type: none"> <li>Water and draining</li> </ul>	✓

**Matters for Consideration Under S.79C EP&A Act**

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<ul style="list-style-type: none"> <li>• Soils</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Air &amp; microclimate</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Flora &amp; fauna</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Waste</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Energy</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Noise &amp; vibration</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Natural hazards</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Safety, security crime prevention</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Social impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Economic impact in the locality</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Site design and internal design</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Construction</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Cumulative impacts</li> </ul>	✓
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> <li>• Does the proposal fit in the locality?</li> </ul>	✓
	<ul style="list-style-type: none"> <li>• Are the site attributes conducive to this development?</li> </ul>	✓
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> <li>• Public submissions</li> </ul>	N/A
	<ul style="list-style-type: none"> <li>• Submissions from public authorities</li> </ul>	N/A
	Comment: Following notification, no submissions have been received.	
(e)	The public interest	
	<ul style="list-style-type: none"> <li>• Federal, State and Local Government interests and Community interests</li> </ul>	✓

**SEPP 65 - Design Quality of Residential Flat Development and NSW Apartment Design Guide (NSW ADG)**



*Figure 1 – View of the architectural model focused on the corner of 17 Albert Avenue.*

The modification application is accompanied by a design verification prepared by George Revay / Revay & Unn Architects. The additional units proposed in this application have been assessed against the design quality principles set out in Part 2 of SEPP 65 - Design Quality of Residential Flat Development and the Design Criteria contained in the Apartment Design Guide. Solar access and natural ventilation are addressed in a SEPP 65 Amenity Compliance Report prepared by Steve King - Consulting Architect. The modified development performs better than the approved development in respect to these criteria.

**Willoughby Local Environmental Plan 2012 (WLEP 2012)**

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

The modified development results in a 100mm increase in height on all buildings in order to adjust the levels of the buildings with the footpath on the surrounding streets. However, this will not change the overall scale of the development or its external impacts.

The modified development is in harmony with the bulk and scale of surrounding buildings, of the streetscapes and provides a transition from the low-density residential development along Albert Avenue to the higher density business, retail and residential development to the north. All facades will appropriately address the streetscapes. The modified proposal continues to meet the objectives of the height of building development standard and the objectives for development within the B4 Mixed Use zone.

**Height of Building**

As a result of the including the previously isolated site at No 17 Albert Avenue and extension of the approved mixed-use development over this area, the proposal has a limited area with variations up to 12.11m above the 9m height limit. This is to allow for a reasonable transition of building height from the approved over 20m tall buildings along Oscar Street to the 9m building fronting Albert Ave.

The proposal involving the extension of the approved built forms in a cohesive manner and is consistent with the streetscape presentation of the approved development. The transition in scale from the low-density residential developments along Albert Avenue to the higher density business, retail and residential development to the north along Victoria Avenue will be maintained by the modified development. The modified development proposes a 3 storey built form along Albert Avenue in a similar manner as the approved development.

The modified development will not cause unreasonable external impacts such as view loss, visual intrusion or privacy issues or unacceptable overshadowing.

The modified development's non-compliance with the building height control standard in Clause 4.3(2) of WLEP 2012 is acceptable for the reasons outlined below:

- The bulk and scale of the development suits the land use purpose and the environmental capacity of the land;
- The proposal provides a suitable architectural response including the transition of building heights towards the heritage conservation area to the south of Albert Ave as intended by the height standards;
- The non-compliance does not materially change the development's scale and streetscape presentation from that of the approved development;
- The proposal will have acceptable impacts on adjoining properties; and
- The proposal meets the B4 Mixed Use zone objectives and the objectives of the height of building standard.

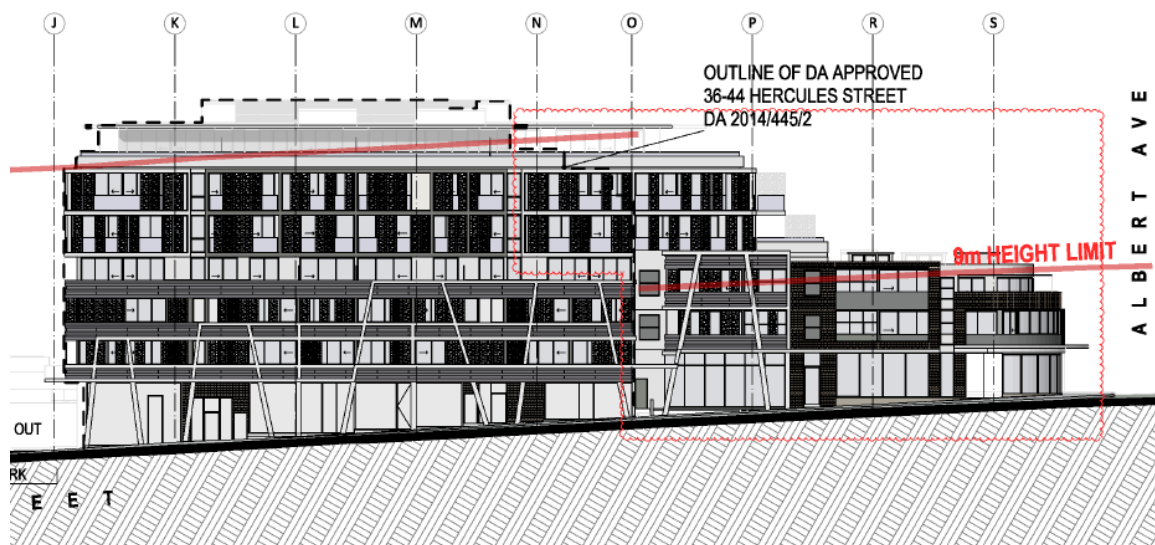


Figure 2 – Proposed continuation of Oscar Street South elevation on the corner lot at 17 Albert Avenue showing Height non-compliances

### Floor Space Ratio

The modified development continues to comply with the maximum overall FSR of 2.5:1 applicable to the site.

The approved development exceeds the maximum FSR of 1.25:1 for shop-top housing as specified in Clause 4.4A (14) of WLEP 2012. The proposed modifications will increase both the residential (shop-top housing) and commercial components of the approved development. This will marginally change the mix of these components and results in an

increase of the residential component from 1.98:1 to 2.00:1. However, the minor change in numerical compliance is not considered to materially affect the overall planning outcomes of the development in providing a mix of residential accommodation and commercial premises on the perimeter of the Chatswood Central Business District. The modified development is substantially the same as the approved development in meeting the objectives of the B4 Mixed Use Zone and the objectives of the FSR standard.

### Heritage Item and HCA

The subject site includes a listed heritage item (256 Victoria Avenue - Chatswood Community Nursing Home formerly Ku-ring-gai Community Hospital – Item no I133 in Schedule 5 of WLEP 2012) and is located opposite to the South Chatswood Conservation Area to the south.

The original proposal involved the adaptive reuse and restoration of the heritage item on the site, with the north-facing public plaza to Victoria Avenue acting as a curtilage to the heritage building and as a forecourt area to the retail component. The proposed modifications to the approved works relating to the heritage item are minor and do not affect the heritage significance of the item. The development as modified will continue to meet the objectives in *Clause 5.10 Heritage Conservation of WLEP 2012*.

### Traffic and Parking

The proposed modification includes additional residential units, a minor increase in the retail floor area and an increase in the size of the child care centre. As such, the modifications will generate the need for additional off-street car spaces.

DA-2014/445/A assessed the allocation based on RMS requirements – Guide to Traffic Generating Developments (Section 5.4.3 High density residential flat buildings) as follows:

Studios - 0 space/apt  
 1 bed - 0.6 space/apt  
 2 bed - 0.9 space/apt  
 3+ bed - 1.4 space/apt

The modification application is proposing an increase in the number of apartments to 226 and a corresponding increase in the car parking provision from 444 to 473. When applying the same allocation based on RMS requirements, a minimum of 46 apartments should be required to have a minimum of 1 car space per apartment.

<b>Approved</b>	<b>Min no of car spaces approved per apartment</b>	<b>Proposed</b>	<b>Min no of car spaces to be required per apartment</b>
15 x Studios 83 x 1 bedrooms  70 x 2 bedrooms 41 x 3 bedrooms 4 x 4 bedrooms	0 Min <u>51</u> apt shall have 1 1 1 1	16 x Studios 76 x 1 bedrooms  82 x 2 bedrooms 46 x 3 bedrooms 4 x 4 bedrooms	0 Min <u>46</u> apt ( <i>approx. 60%</i> ) shall have 1 1 1 1
213 apt	207 residential car parking spaces	226 apt	218 residential car parking spaces

Condition 133 of consent is recommended to be amended accordingly.

#### Changes to childcare

The increase in floor area of the childcare generated by incorporating 17 Albert Avenue into the development will result in an increase in the number of children, staff and car parking associated with the childcare as follows.

<b>Proposed S96</b>	<b>Approved</b>	<b>Minimum Ratio Requirements (Education and Care Services National Regulation 2011 &amp; C4 of WDCP)</b>	<b>Compliance</b>
22 staff for 98 children	16 staff for 79 Children	Birth to 24 months – min 1:4,  25 to 35 months – min 1:5, and  36 months to preschool age - min 1:11.	Yes
11 car spaces for employees and  10 car spaces for drop- off and pick-up	8 car spaces for employees and  8 car spaces for drop-off and pick-up	1 space / 2 full time staff member  1 space/ 10 children (Section C.4.3 F of WDCP)	Yes

The modified development continues to be compliant with relevant current legislation, including Part G8 of the WDCP 2006 and the Education and Care Services National Regulation 2011. The corresponding conditions are recommended to be amended to reflect the increase in children, employees and car parking allocation.

#### Access Report

An Access Report prepared by Mark Relf of Accessibility Solutions NSW Pty Ltd accompanies the Modification Application. The criteria included BCA, DDA Premises Standards. Part C of WDCP requires 50% of the apartments in developments with lift and greater than 3 storeys shall be adaptable. The development as modified will provide 113 adaptable apartments and satisfies the requirement.

#### Affordable Housing

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

The current modification is increasing the residential gross floor area (excluding affordable housing component and heritage floor space) from 17,570m<sup>2</sup> to 18,914m<sup>2</sup>. Consequently, the affordable housing component is increasing as well. The recommendation includes

revision of the condition to meet the corresponding monetary contribution for the affordable housing requirement to the equivalent of 57.56m<sup>2</sup> of floor space.

### Undergrounding of Services

To comply with *Clause C.15 (Undergrounding of services) of WDCP*, a condition of consent was imposed with original application to relocate underground all existing overhead services on Hercules Street but will only bundle services along Albert Avenue due to 17 Albert Ave was isolated/excluded from the development site. As the development now benefits of the entire length of the block on both Hercules Street and Albert Avenue, the condition of consent is recommended to be modified to provide for undergrounding of all existing overhead services around the perimeter of the site.

### Encroachment on Council Land

The modification includes at Level 1 a “*150x250mm architectural features that protrude above awning*”, above Oscar Street footpath. No justification is provided and as such a condition of consent will require that the drawings are revised prior to the issue of a Construction Certificate to show no encroachment on public land.

### 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 to be \$83,061,087. The Section 94A Contribution Condition is proposed to be modified accordingly.

## **Neighbour Notification Issues:**

Recommendations made by Northern Sydney Local Health District (NSLHD) and commentary on those matters are summarised below:

- NSW Health recommends that deleting the bike lockers should not be supported as storage of a bike is seen to be separate to storage of other household items. A proportionate number of bike lockers and bike rails shall be added.

### Comment

The applicant noted the submission and did not wish to delete the lockers. Moreover, the proposal now adds 1 bike locker for residential and 1 for retail. This brings the total number of bike lockers for residential to 31 and the total number of bike lockers for retail to 23. The bike rails are increased to a total of 48. These numbers comfortably meet WDCP requirements.

- NSW Health seeks to encourage “the access and utilisation of 2 car sharing services for residents and local community.

### Comment

Condition 133 of the DA 2013/142 already stipulates access to such a scheme.

- NSW Health is recommending inclusion of an on-road cycling route along Hercules St

Comment

Noted; however, such a scheme is beyond the scope of the current application.

- NSW Health is recommending inclusion of a community garden in the plaza adjoining Victoria Avenue and the inclusion of child-friendly spaces into the planned open spaces.

Comment

Although a community garden is not proposed in the Plaza, the development includes playground areas in the residential open spaces (e.g., a child-friendly play area is approved on the roof of the Oscar North building).

- NSW Health is recommending a condition to be placed on “restricting advertising and marketing of products that are detrimental to the health of the community such as fast food and sugar-sweetened beverages”.

Comment

Noted. Such schemes are outside the scope of the current application.

## CONCLUSION

The modification application DA-2014/445/C is substantially the same development for which consent was originally granted and has been assessed in accordance with the provisions of Section 96(2) & 79(C) of the EP&A Act, WLEP 2012, WDCP and other relevant codes and policies.

The inclusion of 17 Albert Avenue Chatswood to the development site will deliver better planning and urban outcomes for the locality. The modified development will ‘fill in’ the visual gap that was left by the previously isolated site. The proposed built forms appropriately step down towards the corner of Oscar Street with Albert Avenue, providing for consistent streetscape presentation along Oscar Street and Albert Ave. As such, approval of the modification application is recommended.

## OFFICER’S RECOMMENDATION

**THAT the Joint Regional Planning Panel approves the modification to the development subject to the attached conditions and issue consent for the application DA-2014/445/C for “*Inclusion of 17 Albert site to extend the childcare centre, add 13 apartments and increase onsite car parking provision and associated works*” at 36-38 Hercules Street, 17 Albert Avenue & 256-260 Victoria Avenue, CHATSWOOD NSW 2067.**



## SCHEDULE

**Development Consent 2014/445 be modified as follows:**

- A. Conditions No. 1, 2, 3, 15, 16, 24, 26, 36, 76A, 87, 89, 97, 130, 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
Eng. / Stormwater	12308-04, 12308-05, 12308-06, 12308-07, 12308-08	C	13 Jun 2015	23 Jun 2015	ING Consulting Engineers

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

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,

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

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Stamped/Received 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, AD.1, AD.2, AD.3, AD.4, AD.5	E	6 Jun 2016	16 Jun 2016	Revay & Unn
Eng./	S15104 H-03-0020, S15104 H-03-0023,	02	19 Aug 2016	19 Aug 2016	Floth

Stormwater	S15104 H-03-0024, S15104 H-03-0025, S15104 H-06-0021, S15104 H-05-0022, S15104 H-06-0023, S15104 H-06-0024, S15104 H-06-0032, S15104 H-06-0033, S15104 H-06-0034, S15104 H-06-0042, S15104 H-06-0043, S15104 H-05-0044, S15104 H-06-0051, S15104 H-06-0052, S15104 H-06-0054, S15104 H-06-1011, S15104 H-06-1012, S15104 H-06-1013, S15104 H-06-1014				
Eng./ Stormwater	S15104 H-06-0031	03	19 Aug 2016	19 Aug 2016	Floth
Eng./ Stormwater	S15104 H-03-0020, S15104 H-06-0010, S15104 H-06-0041	03	-	9 Sep 2016	Floth
Eng./ Stormwater	S15104 H-06-0026	00	-	9 Sep 2016	Floth

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)

## 2. Section 94A Contributions

A monetary contribution of \$830,610.87 (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 \$83,061,087.00 at 7 June 2016 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](http://www.willoughby.nsw.gov.au)  
(Reason: Statutory requirement)

### 3. Affordable Housing Monetary Contribution

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

In this case, in addition to the affordable housing dwellings nominated, a monetary contribution for **57.56m<sup>2</sup>** 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)

## 15. Amendments of the Engineering Documentation and Plans

The proposal is to be amended in the following manner:

### A. Revised Stormwater Management Plans

#### (i) Hydraulic Grade Line Analysis

A hydraulic grade line analysis shall be prepared for the proposed stormwater connection from the plaza area to Councils trunk drainage system at the corner of Victoria Avenue and Oscar Street. This proposed connection to Council's drainage system shall be hydraulically evaluated and checked against backwater effect to ensure that the stormwater system functions hydraulically for all storm events in accordance with the minor/major design principles and Councils policies, for all storms up to and including the 100year ARI storms. Should this analysis fail, the applicant shall investigate solutions which may include modification/upgrade to Councils downstream stormwater network and/or modification of the surface levels of the proposed plaza area. Any proposed solution is to be in accordance with Councils policies.

#### (ii) Overflow route

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

#### (iii) Connection to Councils stormwater network

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

#### (iv) Hydraulic Grade Line Analysis

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

#### (v) OSD Checklist

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

### B. Driveway Long Section

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

For the design levels of the 2 vehicular crossings in Hercules Street at the property boundary, the following shall be complied with:

- At back of layback – 100 mm above and parallel to the gutter invert.
- At property boundary – 240 mm above and parallel to the gutter invert.

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

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

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

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

### **C. Sight triangles**

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

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

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

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

## **16. Other Amendments**

The proposal is to be amended in the following manner:

- (a) No encroachments over Council land and footpaths are permitted except for the awning over footpath. This awning shall:
  - be set back minimum 600mm from the footpath edge;
  - be of opaque materials with glass inserts to allow light penetration.
  - have a minimum clearance height of no less than 3.6m above the level of the footpath below, measured to the underside of the encroaching structure.
- (b) The concrete kerb at the top of the down ramp between the retail level and plaza level shall be moved back approx. 0.5 metres to allow easier access of a B99 vehicle into the retail level car park.

- (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)

#### **24. Detailed Stormwater Management Plan (SWMP)**

Submit for approval by the Accredited Certifier, detailed stormwater management plans in relation to the on-site stormwater management and disposal system for the development. Stormwater runoff from the site shall be collected and disposed of via an approved On-Site Detention System with a Permissible Site Discharge (PSD) of 151l/s, and a storage volume of 574m<sup>3</sup> in accordance with Council's DCP and Technical Standards.

The construction drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and in accordance with the stormwater management plans, prepared by ING Consulting Engineers. All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.  
(Reason: Ensure compliance)

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

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

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

the applicant. Detailed long section and cross sections at 5 metres interval shall be provided.

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

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

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

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

(Reason: Ensure compliance)

### **36. Agreement to Transfer Affordable Housing Dwellings**

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



the Council and executed prior to the issue of a construction certificate for any works except Demolition and Excavation.

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

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

The affordable housing dwellings providing a total gross floor area of 699.2m<sup>2</sup> are to be dedicated to Willoughby City Council for the purpose of affordable housing in accordance with Clause 6.8 of Willoughby Local Environmental Plan 2012 as outlined below:

Unit B105 and Unit D105 – all studio apartments,  
Unit B205, C204 and Unit H105 – all 1 bedroom apartments,  
Unit E110, 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)

#### **76A. Heritage Character**

- a) 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.
- b) In order for the new retracting awning over the outdoor areas to provide a transition element between the approved new building to the south and the heritage item, it should be painted in a dark recessive colour so as to mitigate visual impacts.

#### **87. Registration of Plan of Consolidation**

All individual allotments involved in the development site (Lot 101 DP 1158779, Lot 100 DP 1158779, Lot 1 DP 828606 and Lot A in DP 167326) being consolidated into a single allotment and evidence of the registration of the plan of consolidation to be submitted to Council prior to the issue of any Occupation Certificate.  
(Reason: Ensure compliance)

#### **89. Services - Electricity Supply and Telecommunication Mains**

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

All new services and electricity connections to the development shall be located underground at full cost to the applicant.  
(Reason: Public amenity)

**97. On-site Water Management System**

The stormwater runoff from the site shall be collected and disposed of via an approved On-Site Detention System with a Permitted Site Discharge of 151l/s, and a storage volume of 574m<sup>3</sup> 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)

**130. Erection Wholly within the Boundaries**

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

No encroachments are permitted onto Council property or footpath except for the awnings.  
(Reason: Ensure compliance)

**133. On-site Car Parking**

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

218 residential spaces;  
50 residential visitor spaces;  
2 residential car-share spaces;  
182 commercial/retail spaces;  
11 childcare spaces for employees;  
10 childcare spaces for drop-off and pick-up.

A minimum of 1 residential car space shall be allocated to minimum 46 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.

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 19 bike rails and 31 bike lockers should be provided for residential and 29 bike rails and 23 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).

A minimum of 33 of the storage compartments in the basement shall have a minimum size of 3m<sup>2</sup>.

The commercial/retail car parking shall provide for a minimum of 3 hours free of charges parking for staff and visitors of the commercial/retail spaces for the life of the development.

(Reason: Ensure compliance)

### **137. Car Parking Spaces - Childcare**

The ten (10) car parking spaces for drop-off / pick-up for the childcare centre located at Level 1 must be signposted for 15 min parking between the hours of 7am and 9:30am and between 3:30pm and 7:00pm, for the drop-off and pick-up of children. These spaces should be clearly marked '*childcare centre only*' during drop-off and pick-up times to reflect that they are for the exclusive use of the childcare users within the peak hours of the centre.

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

(Ensure compliance)

### **138. Capacity of the Child Care Centre**

The child care centre must have a *maximum* capacity of 98 children, of which:

<b>Age of children</b>	<b>No of children</b>
Birth to 24 months	24
25 to 35 months	25
36 months to preschool age	49

The child care centre must have a *maximum* capacity of 22 employees. When at full capacity, a minimum of 16 employees must be on site at any given time to supervise the children.

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

***Note:*** *It is the responsibility of the applicant to ensure grouping of children and adequate staff supervision are provided in accordance with the relevant legislations and requirements of the Department of Community Services.*

(Reason: Ensure compliance)

B. Condition No 24A is added to read as follows:

**24A. Engineering Certification for stormwater disposal from the site**

Submit Engineering certification for approval by the Accredited Certifier in relation to the on-site stormwater management and disposal system for the development. This certification shall be prepared by a suitably qualified and experienced civil engineer. The Engineer shall certify that the proposed stormwater system for the site has been designed to operate satisfactorily during all rain events, up to the 100 year ARI, and has been adequately designed to ensure will not cause any negative outcome to the proposed development.

(Reason: Ensure compliance)

C. Condition No 16 (a) and 16 (b) and Condition 77 Benefiting Easement to be deleted.

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