

COUNCIL ASSESSMENT REPORT

Panel Reference	2017SNH059 DA
DA Number	DA-2014/445/D
LGA	Willoughby City Council
Proposed Development	S96 - to include changes to driveway, lift, apartments layouts, heritage building and modification to conditions.
Street Address	36-38 Hercules Street, 17 Albert Avenue & 256-260 Victoria Avenue, CHATSWOOD NSW 2067
Applicant/Owner	Chatswood Place Pty Ltd / Oscar Pty Ltd & Hercules Thirty Six Pty Limited
Date of DA lodgement	6 July 2017
Number of Submissions	Nil
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value of original DA: \$83,061,087
List of all relevant s79C(1)(a) matters	WLEP 2012; SEPP State and Regional Development 2011 (SRD SEPP); Deemed SEPP - Sydney Harbour Catchment 2005; SEPP 55; SEPP Building Sustainability Index: BASIX 2004 (The BASIX SEPP); SEPP 65; Residential Flat Design Code; NSW Apartment Design Guide (NSW ADG); Willoughby DCP (WDCP); S94A Plan.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • REPORT • SCHEDULE OF AMENDED CONDITIONS • CONSIDERATIONS UNDER S.96(2) EP&A ACT - OTHER MODIFICATIONS • SITE DESCRIPTION AND HISTORY • DEVELOPMENT STATISTICS TABLE • SECTION 79C ASSESSMENT • COMMENTS FROM OTHER DEPARTMENTS • NOTIFICATION MAP • ARCHITECTURAL PLANS
Report prepared by	Ana Vissarion – Development Planner Willoughby City Council
Report date	23 October 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarized in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Not Applicable

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

36-38 Hercules Street & 256-260 Victoria Avenue, CHATSWOOD NSW 2067

DA NO: DA-2014/445/D

ATTACHMENTS:

1. SCHEDULE OF AMENDED CONDITIONS
2. CONSIDERATIONS UNDER S.96(2) EP&A ACT - OTHER MODIFICATIONS
3. SITE DESCRIPTION AND HISTORY
4. DEVELOPMENT STATISTICS TABLE
5. SECTION 79C ASSESSMENT
6. COMMENTS FROM OTHER DEPARTMENTS
7. NOTIFICATION MAP
8. ARCHITECTURAL PLANS

DATE: 23-OCT-2017

RECOMMENDATION: APPROVAL

LOCATION: 36-38 HERCULES STREET & 256-260 VICTORIA AVENUE, CHATSWOOD NSW 2067

APPLICANT: CHATSWOOD PLACE PTY LTD

OWNER: OSCAR PTY LTD AND HERCULES THIRTY SIX PTY LIMITED

PROPOSAL: S96 - INCLUDE CHANGES TO DRIVEWAY, LIFT, APARTMENTS LAYOUTS, HERITAGE BUILDING AND MODIFICATION TO CONDITIONS.

DATE OF LODGEMENT: 06-JUL-2017

VALID APPLICATION DATE: 15-SEPT-2017 (COUNCIL RECEIVED AMENDED HERITAGE STATEMENT)

REPORTING OFFICER: ANA VISSARION (DEVELOPMENT PLANNER)

1. PURPOSE OF REPORT

The current Section 96(2) modification application is reported to Sydney North Planning Panel (SNPP) 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.

2. OFFICER'S RECOMMENDATION

THAT the Sydney North Planning Panel (SNPP) approves the modification to the development subject to the attached amended conditions and issue consent for the application DA-2014/445/D to *"Include changes to driveway, lift, apartments layouts, heritage building and modification to conditions"* at 36-38 Hercules Street, 256-260 Victoria Avenue & 17 Albert Avenue, CHATSWOOD NSW 2067.

3. BACKGROUND

The site is located at 36-38 Hercules Street and 256-260 Victoria Avenue, Chatswood and incorporates street frontages to Hercules Street, Albert Avenue, Oscar Street and Victoria Avenue. The site also includes 256 Victoria Avenue, 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. A description of the site and surrounding area and a list of previous applications (history) is contained in **Attachment 3**.

The current modification application seeks consent to modify the original consent granted by JRPP (currently known as Sydney North Planning Panel) 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 current modification application DA-2014/445/D seeks consent for the following changes:

- Alterations to the heritage listed item at 256 Victoria Avenue;
- Change to loading dock carpark;
- Changes to the vehicular entry from Hercules Street;
- Reconfiguration of a number of apartments which results in 225 apartments instead of previously approved 226 apartments;
- Increase in height of the lifts overruns to allow access to pool at top level, in height of clerestory (by 300mm) and in the height of rooftop communal rooms on building 1 (by 150mm) an building 5 (by 250mm) – height increases located central to the building forms;
- Modification of the Condition 133 that requires minimum 3 hours free parking for commercial carpark to require less free car parking.

4. DISCUSSION

The relevant controls and development statistics that apply to the subject land are provided in **Attachment 4**.

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

The proposed amendments subject to this modification application are consistent with SEPP 65 - Design Quality of Residential Flat Development principles of context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction as well as aesthetics. The Design Criteria contained in the Apartment Design Guide are not affected in a degree to require re-assessment of performance and the proposal is assessed to be satisfactory in this regard.

Willoughby Local Environmental Plan 2012 (WLEP 2012) - Heritage

The proposal continues to include the adaptive reuse and restoration of the existing heritage building at 256 Victoria Avenue.

A revised Statement of Heritage Impact prepared by NBRS and Partners has been submitted by the applicant. Council's Heritage Architect reviewed the Statement of Heritage Impact prepared by NBRS & Partners Pty Ltd together with the plans submitted and concluded that the proposed modification will not diminish the heritage signification of the item.

The Schedule of Essential Conservation Works to External Fabric of 256 Victoria Avenue, Chatswood is documented in the revised Statement of Heritage Impact. The relevant condition is recommended to be modified accordingly.

Willoughby Local Environmental Plan 2012 (WLEP 2012) – main controls

The modifications do not impact the approved floor space ratio and the proposal remains compliant with maximum FSR for the site.

The modifications increase the height of buildings due to increase in lift overrun on both Hercules Street and Oscar Street. The height to clerestory for the majority of the block fronting Albert Ave is also increased 0.3m compared with approved. A Clause 4.6 for non-compliant with the maximum height of building development standard contained in Clause 4.3 of WLEP 2012 was originally submitted with the application and the justification continues to be valid and acceptable taking into account that the proposed modifications do not significantly add to the bulk or scale of the building as viewed from the surrounding streets and do not impact amenity of neighbours.

Taking into account the original consent, the development continues to meet the objectives of the zone and the desired character of the locality.

Reducing min requirement for free parking allocated for retail/commercial

Condition 133 requires provision for a minimum of 3 hours free of charges parking for staff and visitors of the commercial/retail car spaces for the life of the development. The applicant is requesting to minimise this requirement to 1 hour. During the process of the application and taking into account the size of the commercial space as well as the minimum time necessary for customers to have a pleasant shopping experience that brings further business to the shops, it was agreed with the applicant that it is more appropriate to require a minimum of 2 hours free of charges parking for staff and visitors of the commercial/retail car spaces for the life of the development. Condition 133 of the consent is recommended to be modified accordingly and can be found in **Attachement 1**.

A detailed assessment of the proposed development in accordance with *'The Matters for Consideration under S79C of the EP&A Act 1979'*, is provided in **Attachment 5**.

Neighbour Notification

The modification application was on notification in accordance with Part B.4 of the Willoughby Development Control Plan (WDCP) from 12 July 2017 to 26 July 2017. No submissions were received.

5. CONCLUSION

The modification application DA-2014/445/D 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 proposal will not result in any adverse impacts on the amenity or character of its surroundings. Moreover, the changes will not adversely impact on the heritage significance of the heritage item which will continue to be retained and adaptively reused within an appropriate setting.

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.

ATTACHEMENT 1 - SCHEDULE OF AMENDED CONDITIONS

Development Consent 2014/445 be modified as follows:

A. Conditions No. 1, 76A and 133 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./ Stormwater	S15104 H-03-0020, S15104 H-03-0023, S15104 H-03-0024, S15104 H-03-0025,	02	19 Aug 2016	19 Aug 2016	Floth

	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

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

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

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Date Received by Council	Prepared by
Architecture	DA2.04, DA2.05, DA2.07, DA2.08, DA2.09, DA2.10, DA2.11, DA2.12, DA2.15, DA2.21	F	4 April 2017	3 July 2017	Revay & Unn
Architecture (heritage item)	ADA-01, ADA-02, ADA-03, ADA-04, ADA-05, ADA-06, ADA-07, ADA-08, ADA-09, ADA-10	-	16 May 2017	3 July 2017	Architelle Architecture & Interiors

	all project 2016-50				
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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)

76A. Heritage Character

- a) The heritage conservation works to 256 Victoria Avenue, Chatswood shall comply with the *Outline - Schedule of Essential Conservation Works External Fabric* in Appendix A as documented in the Statement of Heritage Impact prepared by NBRS and Partners Pty Ltd amended September 2017.
- 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.

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 3m².

The commercial/retail car parking shall provide for a minimum of 2 hours free of charges parking for staff and visitors of the commercial/retail spaces for the life of the development.

(Reason: Ensure compliance)

B. Comply with all other conditions of the Development Consent.

ATTACHEMENT 2 - 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><u>Comment</u></p> <p>The proposed modifications fall within the approved building footprint, are predominantly internal, mainly to apartment layouts, and do not present substantial changes to the built form. The development to which the consent as modified relates remains substantially the same development 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)	it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (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><u>Comment</u></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><u>Comment</u></p> <p>As a result of notification, Council received no submissions.</p>	

ATTACHEMENT 3 - SITE DESCRIPTION AND HISTORY

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 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 did not include the property at 17 Albert Avenue Chatswood located at the corner of Albert Avenue and Oscar Street. With a previous modification application, the development incorporated the newly acquired property at 17 Albert Avenue, which gave the entire block a unified appearance.

The summary of relevant history of the subject site is:

- 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, and restoration of a heritage building and associated works”* 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.
- 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 carparking and associated works* at 17 Albert Avenue was approved by Council on 27 May 2016.
- DA-2014/445/C for *Inclusion of 17 Albert Avenue site to extend childcare centre, add 13 apartments and increase onsite car parking provision and associated works* was approved on 3 November 2017.

ATTACHEMENT 4 - RELEVANT DEVELOPMENT STATISTICS for DA-2014/445/D

	S96(2) Proposal	Approved	Standard	Compliance
WLEP 2012				
Site Area	9446 m ²	9446 m ²	n/a	No change
FSR	2.50:1 of which	2.50:1 of which	2.5:1 (Clause 4.4A (14 a))	Yes, no change
	2.00:1 Residential 0.50:1 Non-residential 18,916m ² residential, 4,139m ² retail and 525m ² childcare Total: 23,580m ² <i>(excluding affordable housing component of 756.56m² and heritage floor space of 415m²)</i>	2.00:1 Residential 0.50:1 Non-residential 18,914m ² residential, 4,139m ² retail and 525m ² childcare Total: 23,578m ² <i>(excluding affordable housing component of 756.56m² and heritage floor space of 415m²)</i>	Residential Maximum - 1.25:1	No change
Height	23.1m to lift overrun on Hercules St North; <u>25.5m</u> to lift overrun on Hercules St South; <u>30.95m</u> to lift overrun on Oscar St North; 24m to lift overrun on Oscar St South; and <u>10.6m</u> to clerestory on Albert Ave <u>On 17 Albert Ave,</u> 21.11m on Oscar St South; 10.91m where it adjoins business with shop-top at Oscar St South; <u>10.6m</u> to clerestory for the majority of the block fronting Albert Ave	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 <u>On 17 Albert Ave,</u> 21.11m on Oscar St South; 10.91m where it adjoins business with shop-top at Oscar St South; <u>10.3m</u> to clerestory for the majority of the block fronting Albert Ave	20m (Hercules Street and Oscar Street - Map Q), 9m (Albert Ave - Map J)	No, but acceptable
Mix of units & size (RFDC)	16 x Studios <u>75</u> x 1 bedrooms <u>82</u> x 2 bedrooms <u>48</u> x 3 bedrooms 4 x 4 bedrooms (total of <u>225</u> units)	16 x Studios 76 x 1 bedrooms 83 x 2 bedrooms 47 x 3 bedrooms 4 x 4 bedrooms (total of 226 units)	0bedrooms ~ 38.5m ² + 1bedrooms ~ 50m ² + 2bedrooms ~ 70m ² + 3bedrooms ~ 95m ² +	Yes, acceptable
Adaptable housing (Part C.6.3 of WDCP)	113 adaptable apartments	113 adaptable apartments	50% of dwellings (shop top housing) equals: 113 adaptable units	No change
Affordable	756.56m ²	756.56m ²	4% of GFA	No change

housing	(2 studios, 3 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 57.56m ² in cash)	(2 studios, 3 x one bedroom units, 4 x two bedrooms units, 1 x three bedroom units remainder of 57.56m ² in cash)		
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	473 car parking spaces 218 residential car parking spaces 52 residential visitor car spaces (including 2 car share spaces) 31 accessible car spaces	Shop Top Housing: 1 space/ dwelling (other than studios) & 0.5 spaces / dwelling (Studio) Visitor spaces: 1 per 4 dwellings 1 in 4 adaptable dwellings to have an accessible car space	No change
	182 retail car spaces (incl. courier) 11 car spaces for employees of childcare 10 car spaces for drop-off and pick-up	182 retail car spaces (incl. courier) 11 car spaces for employees of childcare 10 car spaces for drop- off and pick-up	Retail Shop: 1 space per 25m ² Childcare: 11 car spaces for 22 employees of childcare & 10 required for 98 children (childcare drop-off / pick-up)	No change
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+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> Rail – 1 per 12 dwellings Lockers -1 per 10 dwellings <u>Retail</u> Rail - 1 per 150m ² Lockers -1 per 450m ² <u>Office / Business</u> Rail - 1 per 600m ² Lockers -1 per 2,500m ²	No change
Motorcycle	21 spaces	21 spaces	1 per 25 car spaces	No change

(*) Compliance is assessed in the context of the approved statistics of DA-2014/445 and subsequent modifications.

ATTACHEMENT 5 - SECTION 79C ASSESSMENT

Controls that apply to the subject site


- 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;
 - Apartment Design Guide (NSW ADG);
 - Willoughby DCP (WDCP).
- iii) **Developer's Contribution Plans:**
- a. S94A Developers Contributions: Yes, with original application
 - b. Applicable rate: 1% (outside CBD)
 - c. Cost of development: \$83,061,087.00 – no change

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)	✓
	<p>State Environmental Planning Policy No. 55 - Remediation of Land</p> <p>The original application was assessed in regard to site contamination and remediation as required by SEPP 55 and in this regard the modification application does not require further consideration.</p> <p>Deemed Harbour SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed Harbour SEPP)</p> <p>The development remains consistent with the planning principles established by the deemed Harbour SEPP.</p>	
	<p>SEPP 65 - Design Quality of Residential Flat Development and NSW Apartment Design Guide (NSW ADG)</p> <p>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 amendments are consistent with SEPP 65 - Design Quality of Residential Flat Development principles of context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction as well as aesthetics. Achievements reached against the design quality principles set out in Part 2 of SEPP 65 and the Design Criteria contained in the Apartment Design Guide are not affected in a degree to require re-assessment of performance. The modified scheme provides consistency with the design principles and the proposal is assessed to remain satisfactory in this regard.</p> <p>State Environmental Planning Policy (Infrastructure) 2007</p> <p>The proposed changes do not affect compliance with the conditions imposed on the original application.</p> <p>Building Sustainability Index: Basix (BASIX)</p> <p>The proposed changes do not affect compliance with the conditions imposed in regard to BASIX.</p>	

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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<p>Willoughby Local Environmental Plan 2012 (WLEP 2012)</p> <p>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 (currently renamed Sydney North Planning Panel).</p> <p>The proposal continues to comply with the overall <i>maximum floor space ratio</i> of 2.50:1 in Clause 4.4A of WLEP 2012 and continues to breach the maximum <i>Height of buildings</i> standard as specified in Clause 4.3A of WLEP 2012 as detailed in Attachement 4. The proposed modifications to the built form of the approved development are permissible with consent in the zone.</p> <p>The modifications slightly increase the height of buildings due to increase in lift overrun on both Hercules Street and Oscar Street. The height to clerestory for the majority of the block fronting Albert Ave is also increased 0.3m compared with approved.</p>  <p><i>Figure 1 – Section through the whole block between Victoria Avenue and Albert Avenue - looking East, showing that the changes subject to this application (bubbled shown on top of buildings) are mainly limited to lift over run and clerestory</i></p> <p>The Clause 4.6 objection to the maximum height limit control that applies to the site submitted with the original application and the justification provided continue to be valid and the amount of non-compliance remains acceptable. The modifications provide increase amenity for the future residents and patrons without significantly adding to the bulk or scale of the building as viewed from the surrounding streets. Taking into account the original consent, the development continues to meet the objectives of the zone and the desired character of the locality.</p>	
(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) 	N/A
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓

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

	Willoughby Development Control Plan (WDCP) The modifications to the approved built form do not change the streetscapes presentation of the development and general compliance with WDCP controls. The changes do not increase impacts on the adjoining properties or the natural environment. Subject to the amended conditions in Attachment 1 , the modifications continue to provide an appropriate integrated setting for the heritage listed building that is part of the site to provide for commercial uses, ensuring its retention and conservation as per WDCP intent.	
(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	
	<ul style="list-style-type: none">• Context & setting	✓
	<ul style="list-style-type: none">• Access, transport & traffic, parking	✓
	<ul style="list-style-type: none">• Servicing, loading/unloading	✓
	<ul style="list-style-type: none">• Public domain	✓
	<ul style="list-style-type: none">• Utilities	✓
	<ul style="list-style-type: none">• Heritage	✓
	<ul style="list-style-type: none">• Privacy	✓
	<ul style="list-style-type: none">• Views	✓
	<ul style="list-style-type: none">• Solar Access	✓
	<ul style="list-style-type: none">• Water and draining	✓
	<ul style="list-style-type: none">• Soils	✓
	<ul style="list-style-type: none">• Air & microclimate	✓
	<ul style="list-style-type: none">• Flora & fauna	✓
	<ul style="list-style-type: none">• Waste	✓

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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

• 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	✓
<p><u>Heritage</u></p> <p>The proposal continues to include the adaptive reuse and restoration of the existing heritage building. The alterations proposed within this Section 96 modification which are pertinent to the locally listed heritage item include:</p> <ul style="list-style-type: none"> • Internal works including removal of non-original internal fixtures and walls, reinstating select original walls, creating new openings. • Replacing non-original windows. • Rear balcony and verandah roof adjoining the lift. • Construction of new attic room and skylights within existing roof form. <p>The revised Statement of Heritage Impact requested by Council's Heritage architect and prepared by NBRS and Partners concludes:</p> <p><i>"This S96 would make relatively small changes to the building, further to previous agreed development works, adaptations and conservation works. The massing would be changed by the verandah on the south side to neaten the building where highly compromised fabric was approved to be removed, and by minor changes to the room form to accommodate the lift overrun. The remaining changes are internal, affecting intrusive fabric and some original but undecorated fabric.</i></p> <p><i>The S96 amendment to the DA would provide an appropriate integrated setting for the item to be used as part of the commercial uses of the site, ensuring its retention and conservation. I therefore commend the heritage aspects of this section 96 application."</i></p> <p>Council's Heritage Architect reviewed the Statement of Heritage Impact prepared by NBRS & Partners Pty Ltd together with the plans submitted and concluded that the proposed modification will not diminish the heritage signification of the item.</p>	

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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	The Schedule of Essential Conservation Works to External Fabric of 256 Victoria Avenue, Chatswood is documented in the revised Statement of Heritage Impact. The relevant condition is recommended to be modified accordingly (Attachment 1).	
	<p><u>Reducing minimum requirement for of 3 hours free of charges free parking allocated for retail/commercial</u></p> <p>Condition 133 requires provision for a minimum of 3 hours free of charges parking for staff and visitors of the commercial/retail car spaces for the life of the development. The applicant is requesting to minimise this requirement to 1 hour.</p> <p>The careful consideration of the matter along with examples provided by established similar commercial spaces and their operation revealed that the followings should also be taken into account:</p> <ul style="list-style-type: none"> • the size of the commercial space and the diversity of the shops proposed; • the minimum time necessary for customers to have a pleasant shopping experience; • the proximity to other shopping centres with their own car-parking restrictions; and • the balance between the interests of the customers (public) and the interests of the shop owners. <p>During the process of the application and investigating the points above, it was agreed with the applicant that it is more appropriate to require a minimum of 2 hours free of charges parking for staff and visitors of the commercial/retail car spaces for the life of the development. Condition 133 of the consent is recommended to be modified accordingly (Attachment 1).</p>	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
	The proposal as modified continues to fit well into the locality.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	N/A
	<ul style="list-style-type: none"> • Submissions from public authorities 	N/A

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

	Following notification, no submissions have been received.	
(e)	The public interest	
	<ul style="list-style-type: none">Federal, State and Local Government interests and Community interests	✓
	The modifications will have no detrimental effect on the public interest pursuant to Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, subject to appropriate amended conditions being imposed.	

ATTACHEMENT 6 -

COMMENTS FROM OTHER DEPARTMENTS

Heritage	<p>Council's Heritage Architect reviewed the plans and made the following comments:</p> <p><i>"The subject heritage item is located at 256 – 260 Victoria Avenue, within the site located on a block bounded by Victoria Avenue, Hercules Street, Albert Avenue and Oscar Street. The statement of significance as identified in Willoughby Council's Heritage Inventory:</i></p> <p><i>"The Chatswood Community Nursing Home has a high level of Significance for the local area. It has a high level of local Historical and Social significance being an endowment to the community by a notable Chatswood family, being used for community purposes both as a hospital and nursing home since 1922 and having the continuing community involvement through its Board of Management. The building has a high level of Aesthetic significance with the oldest sections being a fine example of Federation Queen Anne with a picturesque asymmetrical form, imposing façade and many interesting architectural elements characteristic of that style".</i></p> <p><i>The Heritage listing also notes in regard to modifications that:</i></p> <p><i>"Several modifications were made to the building over the years it was a hospital as its size increased and medical technology improved. In 1991 the hospital was converted to a Community Nursing Home and over three million dollars were spent on changes and upgrading. Sympathetic single storey and two storey extensions were made to the rear in dark face brick with timber woodwork including shingles and a tiled roof. These do not compete with the original heritage building being of recessive materials and colours and are suitable to the site's new function."</i></p> <p><i>The alterations proposed within this Section 96 modification which are pertinent to the above locally listed heritage item include the following:</i></p> <ul style="list-style-type: none"> ○ <i>Internal works including removal of non-original internal fixtures and walls, reinstating select original walls, creating new openings and installing new doors.</i> ○ <i>Replacing non-original windows.</i> ○ <i>Rear balcony and verandah roof adjoining the lift.</i> ○ <i>Construction of new attic room and skylights within existing roof form.</i> <p><i>There is also a modification to Condition 76A – Heritage Character....the application seeks modification with this condition in accordance with the submitted plans which include the above alterations to the heritage item (it is noted that modifications to carpark entry, reconfiguration of units, change to lift core to improve accessibility to the communal roof terrace and services are considered not to have a detrimental heritage impact as views are not impacted from the public domain).</i></p> <p><i>The existing building has substantially been modified over many decades, for the adaptation to its past use as a community hospital i.e. internal changes including new openings and rooms, first floor loggia and ground floor verandah enclosed, new two storey verandah structure on the western side of the entry, removal of all secondary wings which once extended to the south. Further the heritage item has</i></p>
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	<p><i>a substantially modified context, with new development adjacent, however the creation of a public plaza west of the item and new work setback does allow increased visibility.</i></p> <p><i>The proposed further modifications to the heritage item are considered to have low heritage impact, the construction of a timber framed verandah on the south elevation will allow a “bookending” to the building. The impact of the removal of a small amount of undecorative joinery fabric is to be mitigated by reusing original joinery in the building and the use of brick nibs and bulkheads to allow further interpretation as to the original location of amended openings and removal of walls. The accompanying Statement of Heritage Impact notes that the demolition of intrusive post-war work internally will allow restoration of larger rooms. I concur with the concluding remarks of the Heritage Impact Statement:</i></p> <p><i>“The S96 would make relatively small changes to the building, further to previous agreed development works, adaptations and conservation works. The massing would be changed by the verandah on the south side to neaten the building where highly compromised fabric was approved to be removed, and by minor changes to the room form to accommodate the lift overrun. The remaining changes are internal, affecting intrusive fabric and some original but undecorated fabric.”</i></p> <p><i>It is noted that final conservation works as outlined in the Appendix will be undertaken in the context of a future DA for change of use.</i></p> <p><i>The above Section 96 modified application is therefore considered acceptable from a heritage viewpoint.</i></p>
Engineering	No additional conditions or comments were provided.
Building	No additional conditions or comments were provided.

ATTACHEMENT 7 - NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2014/445/D

At: 36-38 Hercules Street & 256-260 Victoria Avenue, CHATSWOOD



Comments:

Created on : Friday, 7 July 2017

ATTACHEMENT 8 - ARCHITECTURAL PLANS

Sections & Elevations of the application including supporting documents can be viewed online via Council's Website - Application Tracking using the modification application number DA-2014/445/D or the property address 260 Victoria:

<https://eplanning.willoughby.nsw.gov.au>