

## SYDNEY NORTH PLANNING PANEL

<b>SNPP No</b>	2017SNH062
<b>DA Number</b>	DA-2017/255
<b>Local Government Area</b>	Willoughby City Council
<b>Proposed Development</b>	Upgrade of existing facilities at Willoughby Girls High School, landscaping and associated works
<b>Street Address</b>	151-161 Mowbray Road, WILLOUGHBY NSW
<b>Applicant/Owner</b>	NSW Department of Education and Communities C/-Mace
<b>Number of Submissions</b>	14
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	Capital Investment Value (CIV) of the proposal is greater than \$5 million dollars and is Crown development.
<b>List of All Relevant s79C(1)(a) Matters</b>	WLEP 2012; Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy-Remediation of Land, State Environmental Planning Policy-Education Facilities and Childcare Facilities) 2017, WDCP; S94A Plan.
<b>List all documents submitted with this report for the panel's consideration</b>	A3 Plans
<b>Recommendation</b>	Approval
<b>Report by</b>	John Mckee - Development Planner (Contract)
<b>Report date</b>	4 December 2017

**SYDNEY NORTH PLANNING PANEL NO:** 2017SNH062  
**COUNCIL:** WILLOUGHBY CITY COUNCIL  
**ADDRESS:** 151-161 Mowbray Road,  
WILLOUGHBY NSW  
**DA NO:** DA-2017/255  
**ATTACHMENTS:** 1. PLANS AND ELEVATIONS  
**DATE:** 4 DECEMBER-2017

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**RECOMMENDATION:** APPROVAL  
**LOCATION:** 151-161 MOWBRAY ROAD, WILLOUGHBY SW  
**OWNER:** NSW DEPARTMENT OF EDUCATION AND COMMUNITIES  
**APPLICANT:** NSW DEPARTMENT OF EDUCATION AND COMMUNITIES C/-MACE  
**PROPOSAL:** UPGRADE OF EXISTING FACILITIES AT WILLOUGHBY GIRLS HIGH SCHOOL, LANDSCAPING AND ASSOCIATED WORKS  
**DATE OF LODGEMENT:** 10 JULY 2017  
**REPORTING OFFICER:** JOHN MCKEE (CONTRACTOR)

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## DESCRIPTION OF PROPOSAL

The proposal seeks consent to upgrade existing school facilities at Willoughby Girls High School, including:

- \* *A new 3 storey multipurpose building for new learning and ancillary spaces to increase the capacity of the school to 1000 students*
- \* *A new multipurpose sports court and sport spaces;*
- \* *Upgrading and refurbishment of existing facilities to be retained;*
- \* *Associated landscaping works; and*
- \* *Removal of existing demountable school classrooms and tennis courts*

The applicant has advised that the upgrading of the school facilities is proposed to generate an additional 30 students and 3 staff. In total the school will accommodate up to 1000 students and 83 staff members.

The application is reported to Sydney North Planning Panel (SNPP) for determination as it meets the relevant criteria to be considered regional development under Schedule 4A of the EP&A Act 1979. More specifically, it is a *development with a Capital Investment Value (CIV) over \$5 million lodged by or on behalf of the Crown (State of NSW.)*

The proposal incorporates the following components:

### Three (3) storey multi-purpose building

The three (3) storey building is located in the south west corner of the site adjacent to the corner of Mowbray Road and Penshurst Street. The building is square with a gross floor area of 2256m<sup>2</sup> and has a maximum height of 14 metres. The building is intended for new learning and ancillary spaces. The building will be located in lieu of underutilised tennis courts that are currently occupied by demountable classrooms. The proposed building will encompass home bases, amenities and outdoor learning space, including:

- General Learning Space
- Common Areas
- Senior Study
- Individual Learning area
- Staff facilities
- Covered outdoor learning space, and

The building is proposed to be constructed with a combination of brick wall materials, fibre cement and strip glazing to the Mowbray Road frontage of the site. An artwork created out of perforated steel screen is also proposed to be located on the western elevation facing Penshurst Street.

### Multipurpose sports court

A new multipurpose sports court and spaces are proposed on the northern side of the 3 storey multi-purpose building with frontage to Penshurst Street.

### Upgrading existing facilities

Refurbishment of Building C (Music Building), including accessibility upgrades which is located on the north side of the proposed 3 storey building with frontage to Penshurst Street.

### Landscaping

A new grassed area of approximately 130.30m<sup>2</sup> is proposed which will separate the new building from the existing music building (Building B00C) being refurbished. It is noted that the existing sandstone retaining walls, significant trees and hedges are proposed to be retained to provide an existing soft edge and buffer between the corner of the site and the school.

### Tree Removal

A total of 15 trees are proposed to be removed along the Penshurst Street frontage the site to provide space for the multipurpose courts and sports area. An Arboricultural Impact Assessment Report has been prepared by Priority Tree Services in support of the proposal.

### Car Parking & Traffic Management

Currently the site has provision for a total of 49 spaces on site. The Impact Assessment Report submitted with the application advises that it is proposed to remove approximately 8 informal parking spaces used off Medway lane and approximately 5 parking spaces at the end of Medway Lane within Willoughby Girls High School. This leaves an on-site provision of approximately 36 formal and informal car parking spaces.

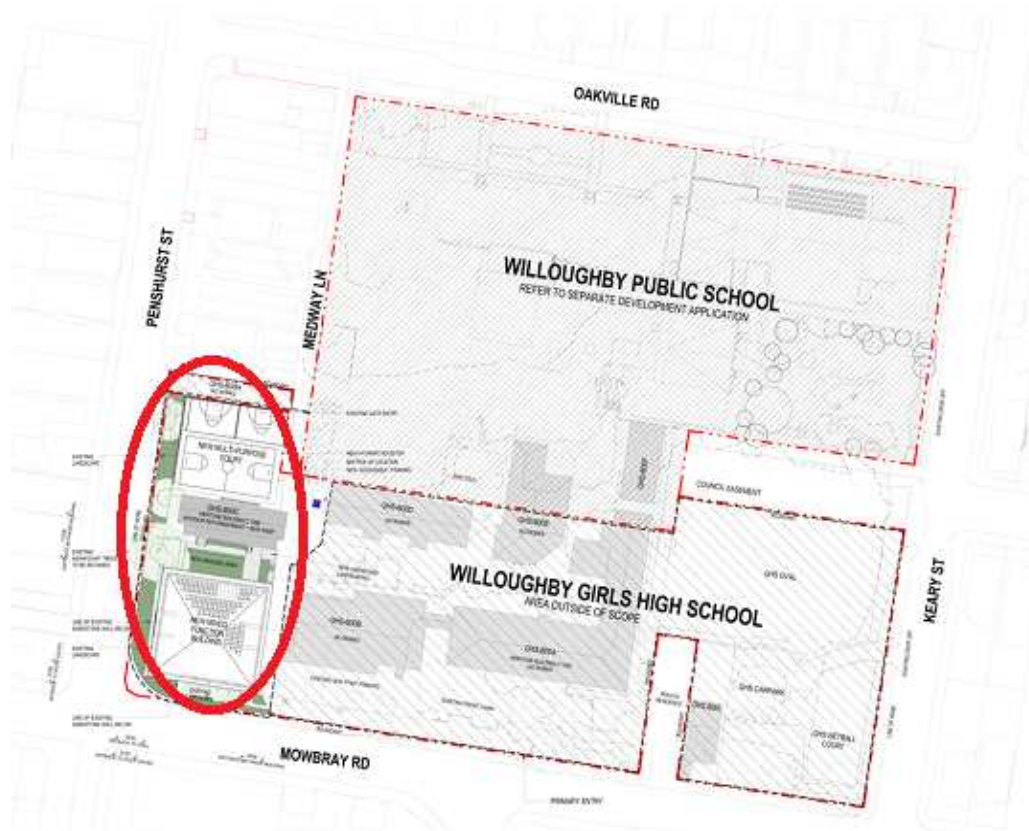


Figure 1-Site Plan



Figure 2-3D Photomontage view from corner of Mowbray and Penshurst Street



Figure 3-3D Photomontage view from Penshurst Street



Figure 4-3D Photomontage view facing north from Mowbray Road (corner Mowbray Road and Penshurst Street)

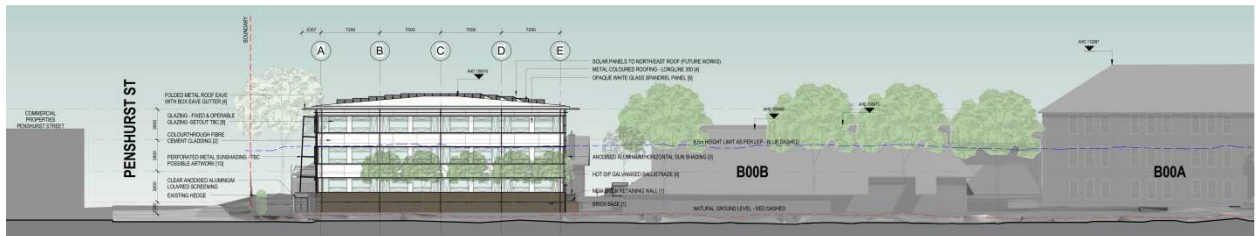


Figure 5-South Elevation



Figure 6-North Elevation

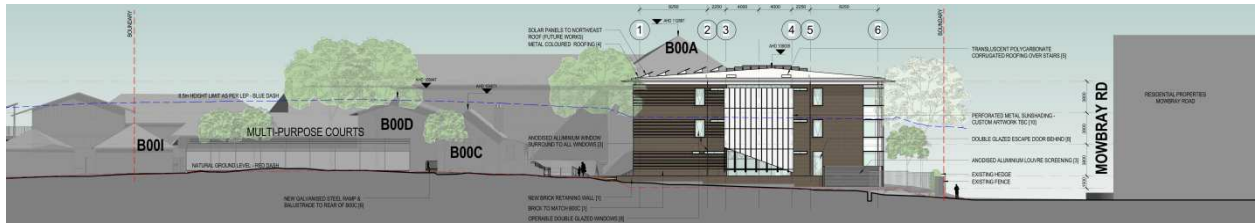


Figure 7-West elevation

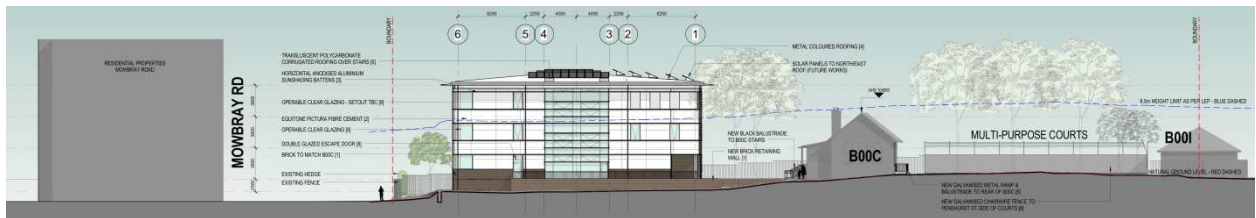


Figure 8-East elevation

## NEIGHBOUR NOTIFICATION

The application was on notification for public comment from 19 July to 9 August 2017. Fourteen (14) submissions were received in total, comprising twelve (12) supportive submissions and two (2) submissions that welcomed the proposal however raised concerns in regard to inadequate car parking provision.

The supportive submissions received primarily advised of the current inadequate facilities servicing children at the school and the need to improve facilities.

## EXISTING BUILDING, SITE CONTEXT AND RELEVANT HISTORY

The site is located at 151-161 Mowbray Road, Willoughby. The site comprises 15 parcels of land, including lots 1 & 2 DP 782204, lots 1-5 and 7-12, Section E, DP 2631, and lots 17 & 18 DP 12612. The site is Crown land, owned by the Department of Education and Communities (DEC). The bulk of the site is zoned R2 Low Density Residential under Willoughby LEP 2012 however a small portion of the site comprising two (2) allotments located in the north western portion of the site fronting Penshurst Street are zoned R3 Medium Density Residential. Refer figure 2.

The site is an irregular shape that has an approximate area of 1.84ha with frontages to Mowbray Road, Penshurst Street, Keary Street and Medway Lane, Willoughby. The site is occupied by the existing Willoughby Girls High School.

The south and western sides of the school fronting Mowbray Road and Penshurst Street are located in a mixed use context to the immediate south and west but adjacent to low density residential housing to the east and the Willoughby Public school to the north. It is noted that a 5 storey mixed use development has recently been constructed on the south eastern corner of Mowbray Road and Penshurst Street which is directly opposite the school site

The subject site contains a local heritage item (I210) identified in Schedule 5 of WELP 2012. The significant heritage buildings on the site are the 1909 Infant School single storey building, 1934 Willoughby Girls High School which is a three storey brick building, the 1934 Gymnasium and the sandstone retaining wall located on the south-western corner of the school site.

The primary pedestrian access to the school is obtained from Mowbray Road to the frontage of the main 3 storey building and also from Keary Street and Medway Lane. The formal pick-



up and set-down zone for students is at the southern end of Keary Street adjacent to the school.

In total there are currently 49 formal and informal spaces available on site for staff parking. The majority of staff parking servicing the school is provided in a signposted staff only car park located in the south west corner of the school where there are approximately 23 parking spaces currently available. Vehicular access to the parking spaces is obtained via Medway Lane which is a narrow two way bitumen standard road which terminates at the school boundary. There is also a secondary car park with 26 delineated parking spaces located in the south eastern corner of the school site with access to Keary Street.



Figure 1-Aerial view of site



Photograph 1-View facing east along Mowbray Road frontage of site



Photograph 2-View facing proposed site of 3 storey multi-function building

## Background

- A pre-lodgement meeting took place on 29 March 2017. The proposal presented at that time was similar to the one subject to the DA. The meeting minutes stated:

*Council officers are concerned that the building does not provide appropriate architectural articulation/building modulation to suitably address this intersection and the existing streetscape. Noting the proposed building is set within a context landscaped setting / low scale buildings of the existing school ground and is likely to be visually prominent against this backdrop.*

*The applicant is required to further illustrate that the proposed separation distances are sufficient to avoid visual distraction from the heritage buildings. Further, it is recommended that the proposed landscaping strip along the Mowbray Road frontage of the building be widen in order to be consistent / complementary to the existing landscaping along the Mowbray Road frontage of the site.*

*The façade should be articulated and appropriate finishes provided, taking into account the streetscapes and the heritage item.*

- The subject application was lodged by NSW Department of Education and Communities on 10 July 2017. The proposal is essentially the same as what was presented to the Pre-DA meeting on 29 March 2017.
- Briefing session with the Sydney North Planning Panel conducted.
- A meeting was conducted with the applicant and consultants on 20 September 2017 to discuss a number of issues associated with the proposal. In particular Council staff recommended improvements to be made to the bulk and scale of the building so it relates better to the surrounding context at the road intersection. In particular request for articulation of the façade to identify/address the corner.



Email correspondence dated 26 October 2017 was forwarded to the applicant requesting that the corner element of the proposed 3 storey multi-function building incorporate greater articulation to improve its presentation and investigate architectural changes to pronounce the corner element of the building. Additionally a request for additional information from Council's Development Engineer was incorporated into the email.

- Applicant submitted documentation to Council on 7 November 2017 in response to Council issues raised at the meeting conducted on 20 September 2017 and request for additional information that had been forwarded to the applicant. The applicant provided justification to Council as to why the requested changes to the corner element of the building were not appropriate in the context of the urban typology of the site.

## CONTROLS AND CLASSIFICATION

- i) **Willoughby LEP 2012:** Yes
  - a. **Heritage Item and Heritage Conservation Area (HCA):** Yes
  - b. **Zoning:** R2-Low Density Residential & R3 – Medium Density Residential
    - i. **Height:** 8.5m
    - ii. **FSR:** 0.4:1



Figure 9-Landuse map

- ii) **Applicable DCP (SEPPs, REPs):** *Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy-Remediation of Land, State Environmental Planning Policy-Education Facilities and Childcare Facilities) 2017, WDCP; S94A Plan.*
- iii) **Developer's Contribution Plans:**
  - a. **S94A Developers Contributions:** 1% of estimated development cost.

## Compliance with Local Plans or Policies and Development Statistics Table

The site is zoned part R2-Low Density Residential and part R3-Medium Density Residential. Development for the purpose of an educational establishment is prohibited in the R2 and R3 zone under *Willoughby Local Environmental Plan 2012 (WLEP 2012)*. Clause 5.12 (1) of the WLEP 2012 states that it does not restrict or prohibit the carrying out of any development, by or on behalf of a public authority, if the development is permitted by the *State Environmental Planning Policy (Infrastructure) 2007 (SEPP (Infrastructure) 2007)*. Educational facilities are permitted with consent under clause 28 of the (Infrastructure) SEPP 2007.

When assessed against the principal development standards, the proposal exceeds the maximum floor space ratio standard for the site of **0.4:1** specified in clause 4.4 of WLEP 2012 and the new 3 storey building exceeds the maximum height of **8.5m** specified in Clause 4.3 of WLEP 2012.

	Proposed	Development Standards	Compliance with standards
Site Area	18396m <sup>2</sup>		
Gross Floor Area of all buildings on site	<b>7459m<sup>2</sup> (Total)</b> 2256m <sup>2</sup> new GFA	7358.4m <sup>2</sup>	(100.6m <sup>2</sup> exceedance)
Floor Space Ratio	0.41:1	0.4:1	<b>No</b> , 0.1 above (Clause 4.6)
Height	3 storey multi-purpose building-14m	8.5m	<b>No</b> , 5.5m above (Clause 4.6)

A written exception pursuant to Clause 4.6 variation to the floor space ratio and height controls - Clauses 4.3 and 4.4 of the WLEP 2012 has been made by the applicant requesting variation to the development standards, which is supported subject to conditions. (See assessment section of report)

### Height

A request has been submitted to the maximum mapped height limit on the site of **8.5m** under Clause 4.3. The proposed 3 storey building has a maximum height of **14m**. It is noted that the proposed three (3) storey building is located directly opposite to a recently constructed 5 storey mixed use development on the south eastern corner of Mowbray Road and Penshurst Street. Further the adjacent sites to the immediate south and west have the following Building Height controls of 11m, 12m and 18m.

Compliance with the current Height of Building development standard for the site is considered unreasonable as it is inconsistent with surrounding development and the public benefit of the public school buildings. In the context of the site, a three storey building of 14m is in keeping with the current and future character of the area.

### Floor Space Ratio

A Clause 4.6 variation request has also been submitted to the mapped floor space ratio on the site of **0.4:1** under Clause 4.4. The proposed **FSR is 0.41:1** is only marginally higher than the standard. The minor variation given the scale of the site is supported.

## **REFERRALS**

### Heritage Architect

The application was referred to Council's Heritage Architect for comment who advised that the proposal was generally satisfactory with heritage considerations.

Council's Heritage Architect advised that the existing heritage items on site consist of the 1934 Willoughby Girls High School building, the 1934 Gymnasium building, the stone retaining wall, and the 1909 Infant School building.

Council's Heritage Architect advised that the new three storey mixed function building will add visual bulk to the south-western corner of the site, however the predominant viewing corridors of the main school building are towards the north-east and currently screened by established tree canopies. The new building will have minor visual impact on the existing setting of the 1909 single storey Infant School, however its separation from this building by 12 metres, will allow continuing views to this building from Penshurst Street.

The contemporary design of the three storey infill building will not compete with the architectural and historic character of the adjacent main school building given the palette of materials incorporating face brick tone of red/brown colour with more contemporary light weight elements massing. The slight hip of the roof form ensures the height of the new development does not compete with the 1934 old school building. The retention of the sandstone wall and landscaping will further integrate the new work into its heritage setting.

Council's Heritage Architect also advised that the minor modifications to the 1909 Infant School building was acceptable with respect to the continued use of the building and accessibility issues.

Standard conditions were recommended.

### Traffic Engineer

The application was referred to Council's Traffic & Transport Group Leader for comment who raised concern regarding the removal of car parking spaces from the site and the Department of Education's Policy of not replacing car parking spaces that were being removed.

### Development Engineer

The application was referred to Council's Infrastructure Services Division for comments. Council's Development Engineer who has no objection subject to conditions.

### Council's Environmental Health Officer

The application was referred to Council's Environmental Health Branch who advised of no objections subject to conditions

Council's Area Building Surveyor advised that the proposal is acceptable subject to conditions.

Councils Landscape Officer had no objection to the proposal and has recommended a number of standard conditions.

## 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>	N/A
	<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>	✓
	<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>	✓
	<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>	✓



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

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"><li>Public submissions</li></ul>	✓
	<ul style="list-style-type: none"><li>Submissions from public authorities</li></ul>	✓
	A total of 14 public submissions were received, including 12 supportive submissions and 2 submissions raising traffic concerns in relation to inadequate car parking provision.	
(e)	The public interest	
	<ul style="list-style-type: none"><li>Federal, State and Local Government interests and Community interests</li></ul>	✓

## ASSESSMENT

### Permissibility and the Willoughby Local Environmental Plan 2012 (WLEP 2012)

The subject site is primarily zoned part R2 Low Density Residential however a small portion of the site located in the north western and comprising the two (2) allotments is zoned R3 Medium Density Residential Zone under the provisions of WLEP 2012. Development for the purpose of an educational establishment is not listed as permitted in the R2 and R3 zones. However Clause 5.12 of the WLEP 2012 states:

#### 5.12 Infrastructure development and use of existing buildings of the Crown

- (1) *This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Infrastructure) 2007.*
- (2) *This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.*

In this respect, **Clause 28** of the *State Environmental Planning Policy (Infrastructure) 2007* reads:

#### 28 Development permitted with consent

- (2) *Development for any of the following purposes may be carried out by any person with consent on any of the following land:*
  - (a) *development for the purpose of educational establishments—on land on which there is an existing educational establishment,*

Having regard to the clauses above, the proposed development on site for the purpose of an educational establishment is permitted with consent.

Noting that development standards in R2 Low Density Residential and R3 Medium Density Residential zones are intended for residential developments, the proposed school building exceeds Height and Floor Space Ratio controls. The FSR of 0.41:1 is marginally above the maximum permissible FSR for the site of 0.4:1. The new 3 storey multi-purpose building (14m high) exceeds the maximum height of 8.5m as specified in Clause 4.3 of WLEP 2012.

#### Clause 4.6 Exception to Development Standard

Clause 4.6 of WLEP 2012 provides an appropriate degree of flexibility in applying development standards to particular proposals and enables Council to grant consent to a development that exceeds a development standard within the environmental plan.

A written exception pursuant to Clause 4.6 has been made requesting variations to both Clause 4.3-Height of Buildings and Clause 4.4-Floor Space Ratio development standards.

#### Extent of Variations

Clause 4.3(2) of the WLEP 2012 prescribes the maximum building height for the land as shown on the Height of Building Map. The proposed development exceeds the 8.5m height standard prescribed in Clause 4.3. The three (3) storey block (14m), exceeds the maximum height of buildings standard of 8.5m by 5.5m. (64.7%)

Clause 4.4 of the WLEP 2012 prescribes the maximum floor space ratio for the land as shown on the Floor Space Ratio Map. The proposed development exceeds the 0.4:1 FSR standard prescribed in Clause 4.4 for the R2 Low Density Residential zoned portion of the site. The development (0.41:1) exceeds the maximum FSR standard of 0.4:1 by 0.01:1. (2.5%)

#### Applicant's reasons in support of the variation

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

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

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

The applicant addressed in writing that compliance with the development standards is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standards, arguing that:

- The site will fully comply with the objectives of the site's R2 Low Density Residential zone.
- The proposed development provides facilities to meet the day to day educational needs of residents.
- Existing residential amenity will be retained for residential properties nearby.
- Provides social infrastructure that reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport.
- Enhance the education experience for students and staff and provides facilities to improve the quality of life of the local community.
- Achieve a high quality urban form, design excellence and reflects the character of the area.
- Conserve the environmental heritage of the Willoughby City Council, by retaining the existing heritage listed buildings.
- The proposed development complies with the objectives of clause 4.3. In particular, the proposed development will be in keeping with the bulk and scale of the surrounding buildings and streetscape; will not adversely impact on adjoining or nearby properties; will be of a high visual quality as a result of a high standard of design; existing views

will not be greatly compromised; and will provide a transition in building scale from higher intensity business and retail uses to surrounding residential areas.

- It is noted the opposing developments along Penshurst Street and Mowbray Road have maximum height restriction of 11m, 12m and 18m respectively. This is significantly higher than the existing high restrictions of the site of 8.5m. The proposed departure from 8.5 to 14m will deliver development consistent with the existing and future character. The proposal will also provide transition in bulk and scale from residential apartments and commercial buildings to low density residential to the north and east of the subject site.
- The proposed development is in full compliance with the objectives of clause 4.4. In particular, it is considered that the intensity of development will be in accordance with the environmental capacity of the land; the impacts of the development on adjoining or nearby properties will be unaffected in terms of loss of views, privacy, overshadowing or visual intrusion; the bulk and scale of the proposed development suits the educational land use; and the development will assist in achieving a transition in building scale and density from the higher intensity business and retail centres nearby to the surrounding residential areas.
- It is noted that surrounding development along Penshurst Street and Mowbray Road has an FSR of 1.5:1, significantly greater than the maximum FSR for the subject site of 0.4:1. The proposed minor departure of the FSR for the site to 0.41:1 will result in a development form that is consistent with the existing built form of the surrounding area.

The proposed development is for the purpose of improving educational facilities at an existing educational establishment within the Willoughby area. The development therefore represents an orderly development of the land in the public interest. Relevant objectives for development within the R2 Low Density and R3 Medium Density Residential zones and the relevant objectives of the Height of Buildings development and Floor Space Ratio standards are addressed as follows:

#### Objectives of the Zoning

The relevant objectives for development within the R2 Low Density Residential and R3 Medium Density Residential zone are listed under the Land Use Table of WLEP 2012, and the reasonableness or necessity for compliance is assessed below:

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comments: The proposed works relate to an existing school and would provide the educational facilities to meet the day-to-day needs of the suburb.

- *To accommodate development that is compatible with the scale and character of the surrounding residential development.*

Comments: The proposal represents a contemporary building that is generally in keeping with surrounding developments and desired character of adjacent properties along Mowbray Road and Penshurst Street which are mapped with height limits of 11, 12 and 18 metres. It is noted that a 5 storey mixed use development has recently been constructed on the south eastern corner of Mowbray Road and Penshurst Street which is directly opposite the school site.

- *To encourage innovative design in providing a comfortable and sustainable living environment that also has regard to solar access, privacy, noise, views, vehicular access, parking and landscaping.*

Comments: The 3 storey multi-use building is a contemporary design that allows for visual quality and provides for a comfortable and sustainable solution to increasing demand in public educational facilities. The building has been selectively sited on the site in such a way to create useable, well-supervised open play space. Significant trees on the site are retained and landscaping is maximised. The building opens to the north and ensures optimal solar access and privacy for the school children and adjoining properties. Masonry materials are proposed on the western facade to act as a thermal sink, protecting the new building from the western sun and also traffic noise.

#### Objectives of the Height Standard

The objectives of the Height of Buildings development standard are listed under Clause 4.3(1) of WLEP2012, and the reasonableness or necessity for compliance with the development standard has been assessed against each of its objectives below:

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

Comments: The current design does lack building articulation which the applicant has advised is impacted by the functionality demands of the building. The proposal incorporates a variety of material selections to create variation in the facades. However to further reduce the bulk and scale of the building a draft condition of consent is proposed requiring provision of a vertical perforated metal screen to wrap around the south western corner element of the building to reduce the bulk and scale of the building and create increased articulation and variation to the building. The scale of the 3 storey building is similar to the adjacent mixed use building directly opposite the site.

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

Comments: The proposal will not create any adverse amenity impacts upon surrounding properties in regard to residents' views, privacy and solar access.

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

Comments: Subject to conditions to provide greater building articulation by incorporation of a corner element, the proposal is considered to integrate well into the surrounding urban context. The non-compliances with height and FSR controls do not compromise the visual quality of the development when viewed from the surrounding places.

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

Comments: The proposal does not disrupt existing views obtained from surrounding properties or from the public domain.

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

Comments: The development takes full advantage of the re-development potential of the school grounds. Although the proposal necessitates a minor variation to the maximum FSR standard of 0.4:1, it is for public educational purposes and is in keeping with the surrounding



context. The proposal retains mature trees to Mowbray Road and the existing hedge fronting Mowbray Road and Penshurst Street.

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

Comments: The increased height allows for more play area on the site, for the retention of the existing significant trees, and for new landscaping. The 3 storey building is located in such a way as to ensure that it primarily casts shadows over the adjacent roads and consequently avoids impacting the amenity of the neighbouring properties. Visually the proposed building will provide a contemporary image for public education yet is sympathetic to the heritage qualities of the site and complements the desired character of the locality subject to conditions.

#### Objectives of Floor Space Ratio Standard

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

Comments: The development has been selectively sited in the south west corner of the site to establish greater open space area for the betterment of students and represents a sustainable development that the site has the environmental capacity to accommodate.

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

Comments: The proposal will not generate any significant additional traffic volumes on the basis of a modest increase of 30 students and 3 staff. The existing road system, set-down and pick-up areas have capacity to accommodate the small increase in anticipated traffic volumes.

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

Comments: The proposal will not adversely impact the amenity of adjacent properties on the basis of the site's separation and the design of the 3 storey building. The proposal does not disrupt existing views obtained from surrounding properties or from the public domain and overshadowing will be predominantly cast over the road reserves of Mowbray Road and Penshurst Street.

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

#### Comments:

Although the bulk and scale of the proposal is not what would be anticipated on a site zoned R2 Low Density Residential it is typical for new contemporary Department of Education school buildings in Metropolitan Sydney.

The scale of the 3 storey building is similar to the adjacent mixed use building directly opposite the site on the south east corner of Mowbray Road and Penshurst Street. It is also noted that sites within the immediate vicinity along Mowbray Road and Penshurst Street are mapped with 11, 12 and 18 metre height limits.

The functionality demands of the building has, to a certain degree constrained the architectural potential of the building. However the proposal does incorporate a variety of material selections to create variation in the facades. In order to further reduce the bulk and scale of the building, a draft condition of consent is proposed requiring provision of a vertical perforated metal screen to wrap around the south western corner element of the building to assist in reducing the bulk and scale of the building and create increased articulation and variation to the building.

#### Grounds for Variation

Noting that the development for the purpose of an educational establishment is prohibited in the R2 and R3 zones and the proposed works are permitted with consent under SEPP (Infrastructure) 2007, the relevance of the standards of the zone is significantly diminished.

Notwithstanding, sufficient environmental planning grounds exist to vary both the height and floor space ratio development standard as specified in Clauses 4.3 and 4.4 of the WLEP 2012, as described below:

- The proposed new school building is in keeping with the bulk and scale of surrounding buildings, the streetscape and desired future character of the locality subject to conditions;
- The proposal will not result in unacceptable detrimental amenity impacts to neighbouring properties;
- The form of the development consolidates the footprint of the buildings and thereby maximising the school courtyard and play area; and
- The proposed works relate to an existing school and will provide the public educational facilities to meet the day-to-day needs of an increasing number of school children that reside in the surrounding local area.

#### Recommendations for the Clause 4.6 Exception

Clause 4.6 Exceptions to development standards of WLEP 2012 has the following objectives:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Compliance with both the height and floor space ratio development standards is unreasonable and unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is in the public interest as it re-develops an overcrowded school with limited capacity to accommodate additional classrooms into a contemporary design that responds to present and future needs of the local community, while taking into account the environmental, social, economic and planning context. In this particular case, the variation to the development standard satisfies the relevant objectives of the height control and of the zone. Pursuant to Subclause (2) in Clause 4.6 of WLEP 2012, consent may be granted even though the development contravenes the development standards imposed by the environmental planning instrument.

### **State Environmental Planning Policy (Infrastructure) 2007**

#### School Facilities Standards

The SEPP provides that before a DA for a school can be determined, the consent authority must take into consideration all relevant standards in the *School Facilities Standards*. Clause 32 of the *SEPP (Infrastructure) 2007* states the following:

*(2) Before determining a development application for development for the purposes of a school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this*

*Policy):*

- *School Facilities Standards-Landscape Standard-Version 22 (March 2002),*
- *Schools Facilities Standards-Design Standard (Version 1/09/2006),*
- *Schools Facilities Standards-Specification Standard (Version 01/11/2008).*

*(3) If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.*

Noting that the *School Facilities Standards* listed in the *SEPP (Infrastructure) 2007* are no longer current, the applicant states that the school facilities have been designed in accordance with the current versions of these standards as updated in the *Educational Facilities and Schools Guidelines (EFSG)*.

The *EFSG* set out the minimum standards and design criteria for all new Department of Education (DoE) projects. It is recommended that a condition of development consent be imposed to ensure compliance with these requirements.

### **State Environmental Planning Policy No. 55 – (Education Facilities and Childcare Facilities) 2017**

The proposal is consistent with Part 4 of the *Education Establishments and Childcare SEPP* which requires consideration of specific development controls relating to schools. It is noted that the proposal is for an increase of 30 additional students and the application does not require referral to the Roads and Maritime Services under Part 7 of the SEPP given the increase in students is less than 50.

### **State Environmental Planning Policy No. 55 - Remediation of Land**

*State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55)* provides controls and guidelines for the remediation of contaminated land. Clause 7 of the SEPP specifies that a consent authority must not consent to the carrying out of any development on land unless it has considered whether land is contaminated and if the land is contaminated, it is satisfied that the land is/ can be suitable for the proposed development.

A Preliminary Site Investigation Report prepared by Greencap dated 30 June 2017 has been provided by the Applicant. This report recommends that further investigations are required to ensure the site is appropriate for the proposed development. Accordingly a draft condition of consent has been imposed requiring preparation of a Stage 2 Contamination Report.

### **Willoughby Development Control Plan (WDCP)**

<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
<b>C.1 Demolition</b>	A condition has been imposed requiring all demolition to be undertaken in accordance with the relevant Australian Standards, including dust controls and health and safety provisions.	Yes
<b>C.3 Sustainable Development</b>	Sustainable development principles have been considered in the development design ensuring that the aims of the DCP are met which include passive design measures to maximise the sun's energy, building orientation and means to reduce energy consumption.	Yes



<b>Part C - General Development Guidelines</b>		
<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
<b>C.4 Transport Requirements for Development</b>	<p>Council's Traffic Engineer retains concerns in relation to the proposed removal of parking spaces and the Department of Education's Policy of not replacing car parking which is being removed. The policy states: <i>"A school is not obliged to provide parking on site to anyone at any time".</i></p> <p>The proposal does not provide the required car parking provisions under Part C.4.2 Parking which requires:</p> <ul style="list-style-type: none"> <li>-1 space for each 2 staff +</li> <li>-1 space/10 seats in assembly hall</li> </ul> <p>On the basis of 83 proposed staff, 41.5 spaces are required. The applicant, despite a request has not provided details of the number of seats provided in the assembly hall to accurately calculate the parking requirements under Part C. 4.2. In any case a variation is necessitated.</p> <p>The school presently has provision for 49 existing parking spaces which is proposed to be reduced by approximately 13 spaces to 36 spaces. The applicant's Traffic Assessment Report has advised, that across both schools, it is proposed to reduce the number of parking spaces by approximately 30 spaces.</p> <p>The applicant has advised of the school's intentions to provide future additional basement car parking under the sports field located on the corner of Keary Street and Mowbray Road. No Development Application has been submitted to Council but a Traffic Impact Assessment Report has been forwarded to Council regarding the proposal.</p> <p>On the basis of potential future on-site car parking and the Department of Education's Policy in respecting to not replacing car parking and proximity of public transport a variation is supported. Public transport ensures that there is reasonable access to the school and the proposal provides for an acceptable scheme by choosing sustainable transportation options that take into account various social, economic and environmental aspects.</p>	<b>Deficiency in Car parking provision</b>

<b>Part C - General Development Guidelines</b>		
<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
<b>C.5 Water Management</b>	WSUD principles have been/ incorporated into the development as per the DCP requirements. Council's Development Engineer has issued draft conditions of consent. No adverse impacts upon local waterways and ecosystems.	Yes
<b>C.6 Access, Mobility and Adaptability</b>	The proposal is supported by an Access issues report prepared by Morris-Goding Accessibility Consulting identifying key areas for improvement to be provided within the new development. Council's Certification Officer has no objection subject to conditions.	Yes
<b>C.8 Waste Management</b>	Draft conditions of consent imposed ensuring Waste Management undertaken in accordance with Council requirements.	Yes with condition
<b>C.9 Preservation of Trees or Vegetation</b>	This proposal seeks approval to remove fifteen (15) trees. The trees are located adjacent to the proposed multifunction courts fronting Penshurst Street. An Arboriculture Impact Assessment Report has been prepared by Priority Tree Services which has been reviewed by Council's Landscape Officer and found to be satisfactory subject to draft conditions of consent.	Yes
<b>C.11 Safety by Design</b>	The principles of Safer by Design have been incorporated into the proposed development.	Yes
<b>C.12 Fencing</b>	Existing steel picket fencing and hedging along frontage to Mowbray Road and Penshurst Street is proposed to be retained.	Yes
<b>C.13 Contaminated Land</b>	As discussed under SEPP 55 considerations, a Preliminary Site Investigation Report prepared by Greencap dated 30 June 2017 has been provided by the applicant. The report recommends that further investigations are required to ensure the site is appropriate for the proposed development. Accordingly a draft condition of consent has been recommended requiring preparation of a Stage 2 Contamination Report.	Yes with condition
<b>C.14 Development near Railway Corridors or Busy Roads</b>	The site will not have any adverse impact on main roads or other key transport infrastructure.	Yes
<b>Part H - Heritage Items and Conservation Areas</b>		

<b>Part C - General Development Guidelines</b>		
<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
<b>H.1 General &amp; H 2 General Conservation Controls</b>	The site is identified with a local listed heritage item under WLEP 2012. (I120) Council's Heritage Architect has reviewed the proposal and has no objection on the basis of separation to existing heritage buildings on site and the selection of materials and muted colours schemes do not compete with the heritage buildings on site.	Yes

### **Neighbour Notification Issues:**

The application was notified in accordance with Part B.4 of the Willoughby Development Control Plan.

The application was on notification for public comment from 19 July to 9 August 2017. Fourteen (14) submissions in total were received comprising twelve (12) supportive submissions and two (2) submissions welcoming the proposal but raising concern in respect to the inadequate provision of on-site car parking as summarised below:

#### Supportive

- The school is currently overcrowded and the development will ease congestion and improve facilities for children and teachers.
- The development is critical to the future of the community, the next generation and on-going betterment of our society.
- The development will improve accessibility issues
- The school is presently hazardous for children to play causing regular accidents.

#### Objection

#### **Inadequate parking and request for provision of basement car parking**

*Two (2) objections were received requesting that the State Government re-consider the merits of providing basement parking beneath their new facilities on the basis of:*

- Reduced parking impacts on the surrounding residential streets*
- Address both traffic and safety concerns*

**Comment:** Council does not support the Department of Education's policy in not replacing car parking. However the applicant has advised of the school's intentions to provide future additional basement car parking under the sports field located on the corner of Keary Street and Mowbray Road. No Development Application has been submitted to Council to date but a Traffic Impact Assessment Report has been forwarded to Council for preliminary assessment.

### **CONCLUSION**

The Development Application has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDGP* and other relevant codes and policies.

The proposal will result in a public benefit as it will provide for modern classrooms to accommodate an increasing number of school children while consolidating the learning spaces with the removal of existing demountable classrooms. The location of the new 3 storey building on the corner of Mowbray Road and Penshurst Street maximises recreational open space for children to play and importantly preserves the heritage qualities of the site.

Development for the purpose of an educational establishment is prohibited in the R2 and R3 zones under Willoughby Local Environmental Plan 2012. Clause 5.12 (1) of the WLEP 2012 states that it does not restrict or prohibit the carrying out of any development, by or on behalf of a public authority, if the development is permitted by the *State Environmental Planning Policy (Infrastructure) 2007 (SEPP (Infrastructure) 2007)*. The proposed works are permitted with consent under *SEPP (Infrastructure) 2007*. It is recommended that the proposal be approved subject to the attached conditions. It is noted that variations are required to both the Height control (Clause 4.3) and Floor Space Ratio control (Clause 4.4) under WLEP 2012 which have been addressed by the applicant and found to be justified for the following reasons:

- The proposed new school building is in keeping with the bulk and scale of surrounding buildings, the streetscape and desired future character of the locality;
- The proposal will not result in unacceptable detrimental amenity impacts to neighbouring properties;
- The form of the development consolidates the footprint of the buildings and thereby maximises the school courtyard and play area; and
- The proposed works relate to an existing school and will provide the public educational facilities to meet the day-to-day needs of an increasing number of school children that reside in the surrounding local area.

## **DEVELOPMENT PLANNER'S RECOMMENDATION**

**THAT the Sydney North Planning Panel:**

- 1. Supports the submitted Clause 4.6 variations to the *Height of buildings* development standard contained in Clause 4.3(2) and the *Floor Space Ratio* development standard contained in Clause 4.4 of WLEP 2012 for DA2017/255 (151-161 Mowbray Road, Willoughby) for the following reasons:**
  - **The proposed new school building is in keeping with the bulk and scale of surrounding buildings, the streetscape and desired future character of the locality subject to conditions;**
  - **The proposal will not result in unacceptable detrimental amenity impacts to neighbouring properties;**
  - **The form of the development consolidates the footprint of the buildings and thereby maximises the school courtyard and play area; and**
  - **The proposed works relate to an existing school and will provide the public educational facilities to meet the day-to-day needs of an increasing number of school children that reside in the surrounding local area.**
- 2. Approves the development and issues consent for DA-2017/255 for upgrading of existing facilities at Willoughby Girls High School, landscaping and associated works**



## **CONSENT IDENTIFICATION**

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

### **SCHEDULE 1**

#### **CONDITIONS OF CONSENT DEFERRED COMMENCEMENT**

In accordance with Section 80(3) of the Act this consent will not operate until the applicant has provided information to the satisfaction of the Council that the following conditions can be complied with. Upon receipt of written information from the applicant in relation to the conditions in this schedule the Council will advise in writing whether the information is satisfactory and, if so, will nominate the effective date for the commencement of this consent.

In accordance with Clause 95(3) of the Regulation, a twelve (12) month period is given from the date of the 'deferred commencement' notice to lodge plans and evidence that satisfactorily address the required amendments/detail. If not, then the 'deferred commencement' will lapse and a new development application will be required.  
(Reason: Ensure compliance)

#### **A. Stormwater Design**

Submit for approval by Willoughby Council full hydraulic design documentation for the required drainage system from the On-Site Detention Tank to the approved point of discharge to the public drainage system by gravity in Mowbray Road. Plans are to be prepared by a suitably qualified and experienced consulting civil engineer in accordance with Council's WDCP and AS3500.3 (2003) *Plumbing Code*. This section of the drainage system shall be sized to have adequate capacity to carry uncontrolled runoff (1: 100 year ARI) from the catchment. The following engineering details must be included:

- i. Plan view of system to scale showing dimensions, location and reduced levels of all pits, grates, pipe inverts, flushing facilities and exact point of discharge,
- ii. The contributing catchment calculations and supporting pipe sizing information,
- iii. Longitudinal section showing existing ground levels and proposed pipe invert levels, grades and flow capacities,
- iv. Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system,
- v. The proposed drainage pipeline shall be designed so that it has adequate capacity to carry uncontrolled runoff (up to 1 in 100 year ARI) from the catchment.
- vi. An electronic copy of the DRAINS file used shall be submitted to Council.

(Reason: Stormwater Control)

## SCHEDULE 2

**Conditions of Consent:** (Including reasons for such conditions)

### CONSENT IDENTIFICATION

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

#### 1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision / Issue No	Plan Date (as Amended)	Prepared by
Architectural – Site Plan	DA010	D	07.07.17	Conrad Gargett Mortlock Woolley Ancher
Architectural – Area Calculation	DA014	D	07.07.17	
Architectural – Demolition	DA020	D	07.07.17	
Architectural – Level Ground	DA101	D	07.07.17	
Architectural – Level One	DA102	D	07.07.17	
Architectural – Level Two	DA103	D	07.07.17	
Architectural – Roof	DA104	D	07.07.17	
Architectural – Elevations South & North	DA200	C	07.07.17	
Architectural – Elevations West & East	DA201	C	07.07.17	
Architectural – Sections	DA205	C	07.07.17	
Schedule of Colours & Materials	DA300	D	07.07.17	
Landscape Details – Sh 1	DA501	A	03/07/2017	
Landscape Details – Sh 2	DA502	A	03/07/2017	
Landscape – Planting Schedule	DA004	A	03/07/2017	
Landscape – Legend & Finishes Schedule	DA003	B	03/07/2017	

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

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

## **PRIOR TO MAKING AN APPLICATION FOR A CONSTRUCTION CERTIFICATE**

**The following conditions are to be complied with before any Construction Certificate Application is made to the Certifying Authority.**

### **2. Amended Plans**

Prior to the certification for Crown Building works, A vertical perforated metal screen to wrap around the south western corner element of the building shall be incorporated to the three storey multi-function building in order to define the corner element and provide diversity and articulation to the facade. The screen should extend a minimum of 7 metres along the western and southern facades and shall be a minimum of 1.5 metres from the base of the building and extend to the height of the roof eave.

(Reason: To create improve building streetscape relationship)

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**The following conditions of consent must be complied with prior to the issue of a construction certificate.**

### **3. Section 94A Contributions**

Prior to the issue of the Construction Certificate, a monetary contribution 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 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 Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) 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.

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = the indexed development contribution payable

ODC = the original development contribution determined by the Council as a percentage of the cost as set down in this contributions plan

CP2 = the quarterly Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) immediately prior to the date of payment

CP1 = the quarterly Consumer Price Index, All Groups, Sydney as published by the ABS immediately prior to the date of imposition of the condition requiring payment of the contribution.

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)

#### **4. Additional Details and/or Information for Construction Certificate**

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

#### **5. Sydney Water 'Tap In'**

Prior to the issue of the Construction Certificate, the approved plans must be submitted online to "Sydney Water Tap In" to determine whether the development will affect Sydney Water's sewer and water mains and to see if further requirements need to be met.

An approval receipt will need to be obtained prior to release of the Construction Certificate.  
(Reason: Ensure compliance)

#### **6. External Finishes – Heritage Character**

All external building material shall be in colours and textures, which are compatible with the heritage character of the locality. In this regard the Schedule of Colours and Finishes submitted with the application satisfies this requirement, and is to be provided to the Accredited Certifier.  
(Reason: Visual amenity)

#### **7. Damage Deposit**

Prior to the issue of the Construction Certificate, the applicant shall lodge a Damage Deposit of **\$150,000** (GST Exempt) as cash, cheque or an unconditional bank guarantee, to Council against possible damage to Council's asset during the course of the building works. The deposit will be refundable subject to inspection by Council after the completion of all works relating to the proposed development. For the purpose of inspections carried out by Council Engineers, an inspection fee of **\$160** (GST Exempt) is payable to Council. Any damages identified by Council shall be restored by the applicant prior to release of the Damage Deposit.  
(Reason: Protection of public asset)

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

Prior to the issue of the Construction Certificate, submit to the Certifying Authority for approval, detailed stormwater management plans in relation to the on-site

stormwater management and disposal system for the development. 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 TTW. All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and National Construction Code.

(Reason: Ensure compliance)

## **9. Construction Management Plan (CMP)**

Prior to the issue of the Construction Certificate, submit, for approval by the Certifying Authority, detailed Construction Management Plan (CMP). The CMP shall address:

- (a) Construction vehicles access to and egress from the site
- (b) Parking for construction vehicles
- (c) Locations of site office, accommodation and the storage of major materials related to the project
- (d) Protection of adjoining properties, pedestrians, vehicles and public assets
- (e) Location and extent of proposed builder's hoarding and Work Zones
- (f) Tree protection management measures for all protected and retained trees.

(Reason: Compliance)

## **10. Internal Noise Levels - School**

To minimise the noise intrusion from any external noise source, the school must comply with the following criteria with windows and doors closed:

<b>Location</b>	<b>Allowable Noise Level</b>
Classroom (Internal Areas)	40 dB(A) Leq(1hr)
Open Space (Passive Recreation)	55 dB(A) Leq(1hr)

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

(Reason: Amenity)

## **11. Contamination Detailed investigation**

A Stage 2 – Detailed Site Investigation shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

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

The detailed site investigation shall provide information about the extent of contamination and the risks of the contaminants to health and the environment. The report shall be submitted to Certifying Authority prior to the issue of the Construction Certificate and a copy to Council for its records for review and concurrence.

(Reason: Environmental protection, public health and safety)

## **PRIOR TO COMMENCEMENT**

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

**12. Waste Management Plan**

A Construction and Demolition Waste Management Plan which provides details of specific strategies to salvage and recycle a minimum of 85% of used and unused demolition and construction materials shall be submitted to the Certifying Authority prior to commencement of work.

(Reason: Environment protection/waste reduction)

**13. Licensee Details**

The name, address and contractor licence number of the licensee who has contracted to carry out the work or the name and permit number of the owner-builder who intends to carry out the work shall be furnished in writing to the Certifying Authority prior to commencement of work. N.B. Should changes be made for the carrying out of the work the Certifying Authority must be immediately informed.

(Reason: Information)

**14. Site Management**

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

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

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

(Reason: Environment protection, public health and safety)

**15. Dilapidation Report of Council's Property**

Submit a dilapidation report including photographic record of Council's property extending to a distance of 50m from the development, detailing the physical condition of items such as, but not exclusively to, the footpath, roadway, nature strip, and any retaining walls.

The developer may be held liable to any recent damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded under the requirements of this condition prior to the commencement of works. In this regard, the damage deposit lodged by the applicant may be used by Council to repair such damage on Council's property.

This dilapidation report shall be submitted to Council and the Certifying Authority prior to commencement of work.

(Reason: Protection of Council's infrastructure)

#### **16. Locate and Expose Existing Council's Drainage Line**

Prior to commencement of work, locate and expose the existing Council's drainage line for the assessment of its condition by the Designing Engineer and Council. Inspection by Council's Engineers is required prior to any backfilling. 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.

(Reason: Protection of public asset)

#### **17. Permits and Approvals Required**

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

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

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

- c) Permit to open public roads, including footpaths, nature strip, vehicular crossing or for any purpose whatsoever. All applications are to include current fees.
- d) Permit to place skip/waste bin on footpath and/or nature strip. (Maximum three (3) days).
- e) Permit to work and/or place building materials on footpath and/or nature strip. (Maximum two (2) weeks).



- f) Permit to establish Works Zone on Public Roads adjacent to the Development including use of footpath area. Applications must be received by Council at least twenty-one days prior to the zone being required. The application will then be referred to the Council's Local Traffic Committee for approval, which may include special conditions.
- g) Permit to construct vehicular crossings over Council's footpath, road or nature strip.

The public footway must not be obstructed at any time unless written approval has been granted by Council. Council's footpath and footway shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Legal requirements)

## **18. Project Arborist**

- i) A Project Arborist is to be appointed prior to commencement of works on site
- ii) The Project Arborist is to have a minimum qualification AQF Level 5
- iii) The Project Arborist is to oversee and authorise all tree protection works detailed in the Arboricultural Impact Assessment Report dated 03 July 2017 prepared by Priority Tree Services and relevant conditions of consent
- iv) The Project Arborist is to certify that all tree protection measures and remediation works have been complied with prior to issue an Occupation Certificate

(Reason: Safety, environmental protection, landscape amenity)

## **DURING DEMOLITION, EXCAVATION AND CONSTRUCTION**

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

## **19. Hours of Work**

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

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

If a variation to these approved hours for multiple or extended periods is sought, an application under Section 96 of the Environmental Planning and Assessment Act 1979 must be lodged with Council at least twenty-one (21) days in advance of the proposed changes to the hours of work. The application must include a statement regarding the reasons for the variation sought, the type of work/s to be carried out, the additional time required, the anticipated impact upon the local amenity and how

this will be minimized, and be accompanied by the required fee. Note: This S96 application may require re-notification in some circumstances.  
(Reason: Ensure compliance and amenity)

## **20. Construction Information Sign**

A clearly visible all weather sign is required to be erected in a prominent position on the site detailing:

- (a) that unauthorised entry to the work site is prohibited;
- (b) the excavator's and / or the demolisher's and / or the builder's name;
- (c) contact phone number/after hours emergency number;
- (d) licence number;
- (e) approved hours of site work; and
- (f) name, address and contact phone number of the Certifying Authority (if other than Council)

ANY SUCH SIGN IS TO BE REMOVED WHEN THE WORK HAS BEEN COMPLETED.

Council may allow exceptions where normal use of the building/s concerned will continue with ongoing occupation, or the works approved are contained wholly within the building.  
(Reason: Ensure compliance)

## **21. Building Site Fencing**

Public access to the site and building works, materials and equipment on the site is to be restricted, when work is not in progress or the site is unoccupied.

A temporary safety fence is to be provided to protect the public, located to the perimeter of the site (unless the site is separated from the adjoining land by an existing structurally adequate fence, having a minimum height of 1.5m). Temporary fences are to have a minimum height of 1.8m and be constructed of cyclone wire or similar with fabric attached to the inside of the fence to provide dust control.

Fences are to be structurally adequate and be constructed in a good and workmanlike manner and the use of poor quality materials or steel reinforcement mesh as fencing is not permissible. All parts of the fence, including the fencing blocks shall be located wholly within the property boundaries.

The public safety provisions and temporary fences must be in place and be maintained throughout construction.  
(Reason: Safety)

## **22. Provide Erosion and Sediment Control**

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

(Reason: Environmental protection)

**23. Suitable Screens**

Suitable screens and/or barricades shall be erected during demolition and building work and where required by the Certifying Authority to reduce the emission of noise, dust, water effluent or other matter from the site.

(Reason: Maintain amenity to adjoining properties)

**24. Demolition Work AS 2601-2001**

Any demolition must be carried out in accordance with AS 2601 – 2001, *The demolition of structures*.

(Reason: Safety)

**25. Suitable Footpath Crossing Provided**

Adequate provision is to be made to ensure that a suitable footpath crossing is provided to the site so as to allow safe pedestrian access along the footpath area at all times.

(Reason: Protection of public safety)

**26. Access to Site**

During Demolition, Excavation and Construction, access to the site is to be available in all weather conditions, and stabilised to prevent vehicles tracking soil materials onto public roads.

(Reason: Environmental protection)

**27. Asbestos Sign to be Erected**

On sites involving demolition or alterations and additions to building where asbestos cement is being repaired, removed or disposed of a standard commercially manufactured sign not less than 400mm x 300mm containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a prominent visible position on the site. The sign is to be erected prior to the commencement of works and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility.

(Reason: Public Health and safety/Ensure compliance)

**28. Neighbour Notification of Asbestos Removal**

The applicant/builder is to notify the adjoining residents five working days prior to demolition works involving removal of asbestos. Such notification is to be clearly written, giving the date work will commence, Work Cover NSW phone number 131 050, Councils phone number 9777 1000.

This notification is to be placed in the letterbox of every property (including every residential flat or unit) either side and immediately at the rear of the site.

(Reason: Public health)

**29. Asbestos Removal**

Works involving the removal of asbestos must comply with Councils Policy on handling and disposal of asbestos, and must also comply with the Code of Practice

for Safe Removal of Asbestos (National Occupational Health and Safety Commission 2012 (1994)).

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

(Reason: Public health and safety/Ensure compliance)

### **30. Asbestos Disposal**

All asbestos laden waste, including bonded or friable asbestos must be disposed of at a waste disposal site approved by the NSW Department of Environment, Climate Change and Water.

Upon completion of the asbestos removal and disposal the applicant must furnish the Certifying Authority with a copy of all receipts issued by the waste disposal site as evidence of proper disposal.

(Reason: Environmental protection/Public health and safety)

### **31. Survey Certificate**

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

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

(Reason: Ensure compliance)

### **32. Road and Footpath**

Council's footpath, nature strip or roadway shall not be damaged and shall be kept clear at all times. The public footway must not be obstructed at any time unless written approval has been granted by Council and the footway including any footpath shall be maintained in a safe condition for pedestrians and the general public at all times.

(Reason: Maintain public safety)

### **33. No Storage on Foot/Roadway**

Building materials, plant and equipment and builder's waste, are not to be placed or stored at any time on Council's footpath, nature strip or roadway adjacent to building sites unless prior written approval has been granted by Council.

(Reason: Safety)

### **34. Skips and Bins**

Rubbish skips or bins are not to be placed on Council's footpath, nature strip or roadway unless prior written approval has been granted by Council.  
(Reason: Safety)

**35. Excavations and Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely, and must be properly guarded and protected to prevent them from being dangerous to life or property.  
(Reason: Safety)

**36. Excess or Waste Concrete**

Excess or waste concrete from mobile concrete agitators or concrete pumping equipment shall not be washed down, spilled or disposed of onto the road reserve, Council's stormwater system, road, pavement, reserves or Council land.  
(Reason: Environmental protection)

**37. Temporary Toilet Facilities**

Temporary toilet facilities shall be provided to the satisfaction of the Certifying Authority.

The provision of toilet facilities must be completed before any other work is commenced on site. NOTE: Portable toilet facilities are not permitted to be placed on public areas without prior approval having been obtained from Council.  
(Reason: Health and amenity)

**38. Sweep & Clean Pavement**

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

(Reason: Legal requirement)

**39. Street Signs**

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

(Reason: Protection of public assets)

**40. Tree Protection**

- i) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees not indicated for removal in the Arboricultural Impact Assessment Report dated 03 July 2017 prepared by Priority Tree Services, unless exempt under relevant planning instruments or legislation.
- ii) The above trees must be clearly marked and protection devices in place to prevent soil compaction and machinery damage.
- iii) Tree roots greater than 50mm diameter are not to be removed unless approved by the Project Arborist on site.
- iv) All structures are to bridge roots unless directed by the Project Arborist on site.
- v) Tree protection measures must comply with the Arboricultural Impact Assessment Report dated 03 July 2017 prepared by Priority Tree Services and AS 4970-2009 Protection of trees on development sites with particular reference to Section 4 Tree Protection Measures

(Reason: Tree management)

**41. Storage of Materials on Council Land Prohibited**

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in the Council reserve is prohibited.

(Reason: Safety, environmental protection)

**42. Waste Classification – Excavation Materials**

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

(Reason: Environment and health protection)

**43. Hazardous Materials – Clearance Certificate**

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

(Reason: Health and safety)

#### **44. Dust Control**

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

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b) Any existing accumulation of dust (e.g. in ceiling voids and wall cavities) must be removed using an industrial vacuum cleaner fitted with a high efficiency particulate air (HEPA) filter.
- c) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- d) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- e) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: Amenity)

#### **45. Construction Noise**

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

(Reason: Amenity)

### **PRIOR TO OCCUPATION OF THE DEVELOPMENT**

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

#### **46. Shared Zone**

A shared zone shall be implemented in Medway Lane between Oakville Road and the end of the lane (at the entry and exit driveway to the school grounds) to maximise safety of school related people using the lane.

(Reason: Road Safety)

#### **47. Pedestrian Footpath**

A pedestrian footpath widening shall be implemented with either a barrier or seat in Oakville Road, south side, west of Medway Lane to support increased separation between pedestrians and vehicles egressing Medway Lane (Council has developed a concept design of these measures).

(Reason: Road Safety)

#### **48. Transport Management Access Plan**



An on-going maintenance of a *Transport Management Access Plan* shall be implemented to support the safe and efficient operation of traffic and transport including parking, pedestrians, cyclists, cars and buses that are used by patrons of the schools and all its related traffic and transport infrastructure and services.  
(Reason: Traffic and transport access, efficiency and amenity and road safety).

**49. Surface Water Runoff**

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

**50. Roof Stormwater Disposal**

Prior to the issue of any Occupation Certificate, the roof stormwater shall be disposed of to:

- a) Council's stormwater disposal infrastructure in accordance with and approved Civil engineer stormwater disposal system.

(Reason: Health and amenity)

**51. Access for the Disabled - Disability Discrimination Act**

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

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

(Reason: Access and egress)

**52. Fire Safety Certificate Forwarded to NSW Fire and Rescue**

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

(Reason: Safety)

**53. Inspection of Drainage Connection to Council's Drainage Line**

Prior to the issue of any Occupation Certificate, inspection of drainage connection works to the existing Council's pipeline/pit shall be carried out by Council's Engineer. A completion certificate shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifying Authority. For the purpose of inspections carried out by Council Engineer, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council.

(Reason: Ensure compliance)

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

Prior to the issue of any Occupation Certificate, the stormwater runoff from the site shall be collected and disposed of via an approved On-Site Detention System with a storage volume of 102m<sup>3</sup> and a permissible Site Discharge of 48l/s 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)

#### **55. Sign for On-Site Detention System**

Prior to the issue of any Occupation Certificate, an aluminium plaque measuring no less than 400mm x 200mm is to be permanently attached and displayed within the immediate vicinity of the On-Site Detention Tank.

The wording for the plaque shall state *"This is the On-Site Detention System required by Willoughby City Council. It is an offence to alter any part of the system without written consent from Council. The registered proprietor shall keep the system in good working order by regular maintenance including removal of debris"*.

(Reason: Prevent unlawful alteration)

#### **56. Confined Space Sign**

Prior to the issue of any Occupation Certificate, securely install a standard confined space danger sign in a prominent location within the immediate vicinity of access grate of the On-Site Detention tank.

(Reason: Safe access to tank)

#### **57. Certification of OSD**

Prior to the issue of any Occupation Certificate, a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with Council's DCP and Technical Standards. Council's standard certification form is available in the appendix of Council's Technical Standard No.2.

(Reason: Legal requirement)

#### **58. Works-As-Executed Plans - OSD**

Prior to the issue of any Occupation Certificate and upon completion of the OSD System, the following shall be submitted to the Certifying Authority:

- Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the volume of storage, PSD, water and floor levels are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.
- Engineer's certification of the OSD system together with the completed Council's standard form for On-Site Detention Record of Installation.

(Reason: Record of works)

#### **59. S88B/S88E(3) Instrument**

Create Positive Covenant and Restriction on the Use of Land on the Title in favour of Council as the benefiting authority for the as-built On-Site Detention System. The

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

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

Documentary evidence of registration of these instruments with the Land and Property Information shall be submitted to the Certifying Authority and Council prior to issue of any Occupation Certificate.  
(Reason: Maintenance requirement)

**60. Documentary Evidence of Positive Covenant, Engineers Certificate**

Prior to the issue of any Occupation Certificate, the following documentary evidence of the completed drainage works shall be submitted to Certifying Authority and Council: -

- Registered Positive Covenant and Restriction on the Use of Land by way of the Title Deed.
- Certification from a suitably qualified and experienced civil engineer (generally CP Eng. Qualification) for the as-built OSD system and/or plumber's certification of the as-built rainwater reuse system.
- Work-as-Executed plans highlighting in red based on the approved stormwater management plans from a registered surveyor for the as-built OSD system and/or rainwater reuse system.

(Reason: Public record)

**61. Completion of Landscape Works**

Prior to the issue of any Occupation Certificate, the approved landscape works shall be consistent with the approved design, completed to a professional standard, consistent with industry best practice and published standards.

(Reason: Landscape amenity)

## **62. Contamination/Remediation – Site Validation Report**

Prior to the issue of any Occupation Certificate, a Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

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

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

(Reason: Environmental protection, public health and safety)

## **63. Acoustic Works – Report**

Prior to the issue of any Occupation Certificate, certification shall be provided upon completion of the works, accompanied with evidence from suitably qualified and practising acoustic engineer, to the effect that the acoustic attenuation has been carried out in accordance with the acoustic report 29497-1 by Wood & Greive Engineers dated 29 June 2017. The report shall include all post construction validation test results.

(Reason: Amenity, environmental compliance and health)

## **ADDITIONAL CONDITIONS**

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

## **64. Retaining Walls and Drainage**

If the soil conditions require it:

- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and
- b) adequate provision must be made for drainage.

(Reason: Safety)

## **65. Erection Wholly within the Boundaries**

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

(Reason: Ensure compliance)

## **66. Annual Fire Safety Statement**

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

(Reason: Safety)

**67. Heritage – Maintain Portion of Existing Building**

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

(Reason: Heritage conservation and Ensure compliance)

**68. Underground Utility Services**

Locate and establish the size and levels of all utility services in the footpath and road reserve. Contact “Dial Before You Dig” Service” prior to commencement of any works.

All adjustments to public utilities’ mains and services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

(Reason: Protection of utilities)

**69. Public Infrastructure Restoration**

Prior to the release of the Damage Deposit, any damaged public infrastructure caused as a result of the construction works on the subject site (including damage caused by, but not limited to , delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) must be fully repaired in accordance with Council’s specification and AUS-SPEC at no cost to Council.

(Reason: Protection of public assets)

**70. Trees on Adjoining Properties**

No approval is given for the removal or pruning of trees on the nature strip, adjoining reserves, or neighbouring private land.

(Reason: Environmental protection)

**71. Noise Control – Offensive Noise**

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

(Reason: Amenity)

**72. Noise Control – Offensive Noise**

To minimise the noise impact on the surrounding environment, the use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act 1997.

(Reason: Amenity)

**73. Waste Materials**

No waste materials are to be stored outside the approved waste storage area at any time. The garbage receptacles are not to be used for the disposal of any type of liquid waste.

(Reason: Health and amenity)

**74. Refuse Collection Point**

A suitable refuse collection point, adjacent to the garbage room(s), must be provided within the building envelope. The loading operation, including the movement of garbage receptacle must take place on a level surface away from gradients and vehicle ramps. No waste/recycling is to be placed on the public footpaths, roadways, plazas, reserves or building colonnade areas, at any time. All garbage receptacles must be returned to the garbage storage area within the property after the bins are serviced.

(Reason: Health and amenity)

**75. Removal of Trade Waste**

The building/business owner must ensure that there is a contract either with Council or a licensed contractor for the removal of trade waste. No garbage shall be placed on the public footpaths, roadways, plazas, reserves at any time.

(Reason: Health and amenity)

**76. Garbage Bin Cleaning**

Garbage bins must be regularly cleaned (every 3 – 6 months) and maintained in good order.

(Reason: Health and Amenity)

**PRESCRIBED CONDITIONS**

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

**77. Compliance with National Construction Code**

All building works must be carried out in accordance with the performance requirements of the National Construction Code.

(Reason: Compliance)

**78. Support for Neighbouring Buildings**

- (1) If development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on an adjoining property, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the building, structure or work from possible damage from the excavation, and
  - b) if necessary, underpin and support the building, structure or work to prevent any such damage, and
  - c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of

intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

(2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

(3) In this clause, "allotment of land" includes a public road and any other public place.

(Reason: Safety)

## **STATUTORY REQUIREMENTS**

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

### **79. Construction Certificate Required**

This consent IS NOT an approval to carry out any building works (with the exception of demolition work). A Construction Certificate is required PRIOR TO ANY BUILDING WORKS BEING COMMENCED.

Enquiries regarding the issue of a construction certificate can be made to Council's Customer Service Centre on 9777 1000.

(Reason: Ensure compliance and statutory requirement)

### **80. Notify Council of Intention to Commence Works**

In accordance with the provisions of Clause 81A(2) of the Environmental Planning and Assessment Act 1979 the person having the benefit of the development consent shall appoint a Certifying Authority and give at least 2 days' notice to Council, in writing, of the persons intention to commence the erection of the building.

(Reason: Information and ensure compliance)

### **81. Occupation Certificate**

The building/structure or part thereof shall not be occupied or used until an interim occupation / final occupation certificate has been issued in respect of the building or part.

(Reason: Safety)