

SYDNEY NORTH PLANNING PANEL

Panel Reference	2017SNH068 DA
DA Number	DA-2016/18/A
LGA	Willoughby City Council
Proposed Development	S96 modification seeking alterations to the building envelope, addition of two adaptable units at level 10 of building A, addition of bedrooms, changes to basement level 3 and associated internal and external changes to the approved shop-top housing development.
Street Address	654-666 Pacific Highway, 1 Freeman Road and 2A Oliver Road, CHATSWOOD NSW 2067
Applicant/Owner	Altus Group Consulting/JL Chatswood Pty Ltd
Date of DA lodgement	25 July 2017
Number of Submissions	Three
Regional Development Criteria (Schedule 4A of the EP&A Act)	Capital Investment Value of original DA: >20 Million
List of all relevant s79C(1)(a) matters	SEPP(65) Design Quality of Residential Apartment Development SEPP(Basix) SEPP (Infrastructure) SREP (Sydney Harbour Catchment). SEPP 55 – Land Remediation Willoughby Local Environmental Plan 2012
List all documents submitted with this report for the Panel's consideration	1. Schedule of Amended Conditions 2. Considerations under s.96(2) EP&A Act - other modifications 3. Site Description and History 4. Development Statistics Table and referrals 5. SEPP 65 – Apartment design guide assessment summary 6. Section 79C Assessment 7. Notification Map 8. Submission Table 9. Voluntary Planning Agreement (as registered) 10. RMS Letter 11. Architectural Plans 12. Copy of original consent DA-2018/16 13. Copy of approved plans DA-2018/16
Recommendation	Approval
Report by	Pooja Chugh – Development Planner
Responsible Officer	Ian Arnott – Planning Manager
Report date	January 2018

PURPOSE OF REPORT

The current Section 96(2) modification application is reported to Sydney North Planning Panel (SNPP) for determination as the original application determined by the Panel met the relevant criteria to be considered regional development under Schedule 4A of the *Environmental Planning and Assessment Act (EP&A Act) 1979*.

1. OFFICER'S RECOMMENDATION

THAT the Sydney North Planning Panel (SNPP) approves the modification to the development subject to the attached amended conditions and issue consent to the application DA-2016/18/A for “alterations to the building envelope, addition of two adaptable units at level 10 of building A, addition of bedrooms, changes to basement level 3 and associated internal and external changes to the approved shop-top housing development” at 654-666 Pacific Highway, 1 Freeman Road and 2A Oliver Road, CHATSWOOD NSW 2067.

2. BACKGROUND

The site is located on the western side of Pacific Highway, just outside the Chatswood CBD area located to the eastern side of the highway. The site is land bounded by Pacific Highway, Freeman Road and Oliver Road. A description of the site and surrounding area and previous application history is contained in **Attachment 3**.

The current modification application seeks consent to modify the original consent granted by Sydney North Planning Panel on 20 December 2016 for “*Demolition of existing structures and construction of 75 shop top apartments, basement car parking, commercial floor space and associated works*”.

The current modification application DA-2016/18/A seeks consent for the following changes:

- Extension of basement level 3 to correspond with the footprint of basement level 1 and level 2 and provide thirty (30) additional car parking spaces;
- Minor rearrangement of circulation core and car parking layout on basement level 1 and level 2;
- Redesign of basement vehicles entries, loading dock and waste storage, reconfiguration of floor layout on lower ground floor;
- Internal and external redesign of units and associated changes to the balconies to achieve compliance with adaptable dwelling standards on level 1 to level 6 for Building A and Building B;
- Reconfiguration of roof top communal open space and extension of level 7 floor plate for Building B from 260m² to 350m², internal and external redesign of units and associated changes to the balconies to achieve compliance with adaptable dwelling standards and accommodate mechanical services;
- Reconfiguration of units and associated changes to the balconies on level 8 and level 9, minor extension of the internal northern façade to accommodate mechanical services;
- Creation of additional storey at level 10 comprising of two (2) three-bed adaptable units, removal of communal roof top terrace and lift overrun above Building A and redistribution of plant services at each level of the building;
- Creation of a new roof level at RL 137.8 limited to stair access and extension of roof area from 300m² to 425m².

- Reducing the total number of shop top apartments from 75 to 72.
- Changes to the shop top housing unit mix and commercial floor space as follows:

	Approved by DA -2016/18		Proposed by DA -2016/18-A
Residential (Shop top housing units)			
	1 bedroom	27 units	22 units
	2 bedroom	44 units	41 units
	3 bedroom	4 units	9 units
Total units		75 Units	72 units
Commercial Space			
	Approved by DA - 2016/18		Proposed by DA - 2016/18-A
Lower Ground Floor	565m ²		567m ²
Ground floor	1714m ²		1705m ²
Total	2279m ²		2272m ²

4. DISCUSSION

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

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

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

4.2 Willoughby Local Environmental Plan 2012 (WLEP 2012)

Floor Space Ratio – 3:1 (with any shop top housing component not exceeding an FSR of 2.14:1)

The proposal, as modified complies with the floor space ratio development standard (excluding affordable housing units and additional car parking).

Height of Building - (up to RL 137.8 and RL128.8)

The proposal, as modified remains compliant with the height of building development standard.

4.3 Willoughby Development Control Plan (WDCP)

The proposed development, as modified is considered generally satisfactory. Specific non-compliance such as additional car parking that relates to the subject

application is addressed in **Attachment 4 - Development Statistics** and by the recommended changes to the original conditions of consent as relevant.

4.4 Neighbour Notification

The modification application notified in accordance with the requirements of the *Willoughby Development Control Plan* (WDCP) for a 21 day period from 3 August 2017 to 24 August 2017.

Council received three (3) submissions in response to the notification. The issues of concern raised in these submissions relate to increase in height to 11 floors, density of the development; loss of natural light and solar access, distinct and dark appearance and loss of property value.

Further discussion of the issues raised in the submissions is provided in **Attachment 8** of this report.

4.5 Road Widening

The applicant is seeking to amend the Condition No. 2 of DA-2016/18 requiring an area of land 4m wide along the Pacific Highway to be dedicated to Roads and Maritime Services (RMS) for future road widening. This condition is required be satisfied prior to the lodgement of a Construction Certificate application. However, the applicant has been unable to satisfy this requirement as RMS is not in a position to acquire the land as yet. Accordingly, this condition is recommended to be amended to enable lodgement of a Construction Certificate application. Amended Condition No. 2 is provided in **Attachment 1 – Schedule of Amended Conditions**.

A detailed assessment of the proposed development in accordance with ‘*The Matters for Consideration under S79C of the Environmental Planning and Assessment Act 1979*’ is provided in **Attachment 6**.

5. CONCLUSION

The modification application DA-2016/18/A is substantially the same development for which consent was originally granted and has been assessed in accordance with the provisions of Section 96(2) & 79(C) of the *Environmental Planning and Assessment Act 1979*, *Willoughby Local Environmental Plan 2012*, *Willoughby Development Control Plan* and other relevant codes and policies.

The proposal will not result in any adverse impacts on the amenity or character of its surroundings. As such, the development subject to the proposed modifications will continue to provide an acceptable planning outcome for the site. Approval of the modification application is recommended.

ATTACHMENT 1 - SCHEDULE OF AMENDED CONDITIONS

Development Consent 2016/18 be modified as follows:

A. Conditions Nos 1, 2, 5, 24, 25, 27, 88, and 129 are modified to read as follows:

1.

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Architectural Plans	S96-2.00	G	22.06.2017	Marchese Partners
	S96-2.01			
	S96-2.02			
	S96-2.03			
	S96-2.04			
	S96-2.05	F		
	S96-2.06			
	S96-2.07			
	S96-2.08			
	S96-2.09			
	S96-2.10			
	S96-2.11			
	S96-2.12			
	S96-2.13			
	S96-2.14			
	S96-2.15			
	S96-3.01	E		
	S96-3.02			
	S96-3.03			
	S96-3.04	F		
	S96-3.05	E		
	S96-3.06			
	S96-4.01			
	S96-4.02			
	S96-4.03	G		
Landscaped plan (project number 15686)	LP01	D	22.06.2017	Matthew Higginson Landscape Architecture P/L
	LP02			
	LP03			
	LP04			
	LP05			

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)

2. 4m Road Widening – Roads and Maritime Services (“RMS”)

Prior to the issue of a Construction Certificate, an area of land 4m wide along the Pacific Highway frontage of the site together with any splay corners must be identified on a survey plan for future road widening by the RMS. The applicant is to dedicate the land to the RMS at no cost to the RMS.

RMS requires any buildings and structures, together with any improvements integral to the future use of the site are to be erected clear of the land required for road (unlimited in height or depth), along the Pacific Highway boundary. In this regard, a plan identifying the building and structures demonstrating clearance from the land required for road widening must be submitted to Council and to the RMS.

An area of land 4m wide along the Pacific Highway frontage of the site together with any splay corners must be dedicated to the relevant authority for future road widening purposes by the land owner.

Written approval / confirmation from the RMS or Council must be obtained demonstrating compliance with this condition to the satisfaction of the RMS.
(Reasons: Ensure Compliance - Road Widening by RMS)

5. Revised Plans

The proposed development is to be amended to incorporate the following amendments/details:

- a) Any awning fronting the Pacific Highway and Oliver Road is to be setback a minimum of 1.5m from the future kerb (post road widening).
- b) The northern most wall of the lower ground floor shall provide a minimum of 4m setback required for road widening along the Oliver Road frontage.
- c) The balconies along Pacific Highway frontage shall maintain a minimum of 4m setback required for road widening by RMS.
- d) The width of any awning along the Freeman Road frontage of the site shall be setback at least 600 mm from the future kerb line (post road widening).
- e) Four (4) Motorcycle bays are to be provided. Design and access to these bays must comply with the requirements of Part C.4 of the WDCP and AS2890.1.
- f) Nine (9) adaptable car spaces are required to be provided. Design and access to these bays must comply with the requirements of Part C.6 of the WDCP and AS2890.6.
- g) Service access must be provided from the lower commercial space at the corner of Freeman Road and Pacific Highway (RL99.60) to the car parking, loading and garage room on the Lower Ground Floor. This can be achieved by changes to the internal layout of the services area on the Lower Ground Floor.
- h) Tower A and Tower B shall provide recycling bin/s on each level to minimise waste generation.

Plans and details incorporating the above requirements must be shown Construction Certificate plans and approved by the Certifying Authority.

(Reasons: Access, services and loading, car parking, WDCP requirements)

24. Adaptable Units

Thirty six (36) adaptable residential units are to be provided by the development in accordance with the requirements of Part C.6 of the *Willoughby Development Control Plan* and as nominated on submitted *plans prepared by Marchese Partners, Drawing Nos S96-8.01 to S96-8.09* inclusive, dated 22 June 2017. Each adaptable unit is to be nominated on the Construction Certificate drawings and is to be provided with a car space or a disabled car spaces where required under the *Willoughby Development Control Plan* Part C.6 – Access, Mobility and Adaptability. (Reason: Access, Mobility and Adaptability)

25. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings identified as Unit B1.01, Unit B1.03 and Unit B2.02 (with a total gross floor area of 186m²) to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the Construction Certificate.

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

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

(Reason: Ensure compliance)

27. Affordable Housing Monetary Contribution

The applicant shall make a monetary contribution for the purpose of providing Affordable Housing that is calculated at 4% of the accountable total floor area of the development to Council. In calculating the monetary contribution reference is to be made to the market value of dwellings of a similar size and taken from the most recent median sales price of such dwellings for the Willoughby local government area as documented in the Rent and Sales Report NSW published by Housing NSW or, if another document has been approved for that purpose by the Director – General, that document.

In this case, in addition to the affordable housing dwellings nominated, a monetary contribution for **37m²** of floor space is required.

Prior to payment of the contribution evidence shall be submitted to Council's Director of Planning and Infrastructure demonstrating how the contribution has been

calculated in accordance with the above requirement. The contribution is to be paid **prior to release of the construction certificate.**
(Reason: Ensure compliance)

40. Waste Management Plan and Garbage Compactor Vehicles

The Waste Management Plan shall be updated to provide a compaction ratio of 1.5:1 and submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

To ensure garbage compactor vehicles can service the premises, entrances, exits, driveways, vehicle ramps, loading dock and car parking, shall be designed with sufficient clearance height, manoeuvring space and suitable gradient. Clearance must take account of roller shutters, service ducts, pipe work etc. A statement prepared by a suitably qualified and experience traffic engineer together with section drawings and swept path detailing compliance with this condition must be submitted to the certifying authority prior to the issue of the relevant construction certificate.
(Reason: Ensure Waste Minimisation and compliance)

88. Car spaces allocation

The approved car spaces must be allocated as follows:

- a) A total of 72 car spaces to be allocated to the residential component of the approved development. One (1) car space is to be allocated for each residential unit/shop top housing unit.
- b) A minimum of 20 car spaces are to be allocated to the commercial tenancies at a minimum of one commercial car space per 110m² of commercial floor space (part thereof rounded down).
- c) A total of 18 car spaces must be allocated as residential visitor car spaces.

Any additional parking spaces provided above and beyond the requirements of Part C.4 of *Willoughby Development Control Plan* can only be provided as commercial parking spaces. Basement Level 3 may be amended to provide the required parking spaces in accordance with this condition.

The allocation of car spaces in accordance with this development consent must be reflected in any subsequent subdivision of the approved development and associated building management plan or strata management plan. The car parking spaces must not be separate allotments, but part allotments in any strata subdivision of the approved development. All residential visitor car spaces must be held in common properties under any strata subdivision of the approved development.
(Reason: Car parking management)

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

ATTACHMENT 2 - CONSIDERATIONS UNDER S.96(2) OF EP&A ACT - OTHER MODIFICATIONS

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)	<i>It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	✓
	<u>Comment</u> The proposed modifications generally fall within the approved building footprint and relate mainly to apartment layouts and roof top terrace, and do not present substantial changes to the approved built form. The proposal, as modified remains substantially the same development as the development for which consent was originally granted.	
(b)	<i>It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</i>	✓
	<u>Comment</u> The proposal, as modified was referred to RMS for comments, no objections were raised.	
(c)	<i>It has notified the application in accordance with:</i> <i>(i) The regulations, if the regulations so require, or</i> <i>(ii) A development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i>	✓
	<u>Comment</u> The modification application was notified in accordance with the requirements of the <i>Willoughby Development Control Plan</i> (WDCP) for a 21 day period from 3 August 2017 to 24 August 2017.	
(d)	<i>It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	✓

Satisfactory ✓ Unsatisfactory ✖ Not Relevant N/A

	<u>Comment</u> Council received three (3) submissions in response to the notification. Discussion of the issues raised in the submissions is provided in Attachment 7 of this report.	
--	---	--

ATTACHMENT 3 - SITE DESCRIPTION AND HISTORY

The site is bounded by Pacific Highway, Freeman Road and Oliver Road, comprising four existing allotments as identified below:

		Site area (m ²)	Existing improvements
Lot 1 DP 1068007	654–656 Pacific Highway	524.80	Two storeys commercial building
Lot 1 DP 121830	658–666 Pacific Highway	1,581.00	Two storeys commercial building/showroom
Lot 1 DP 839309	1 Freeman Road	439.50	Dwelling house with carport
Lot 2 DP 839309	2A Oliver Road	316.40	Dwelling house with carport
			Total area: 2855 m ²
			Site Area – SP2 zoned land (-247 m ²): 2608 m ²

The site is located on the western side of Pacific Highway, just outside the Chatswood CBD area located to the eastern side of the highway. There are clear differences in permissible building height within the Chatswood CBD area on the eastern side of the highway when compared to developments along the western side of the highway directly opposite.

The immediate surrounds of the site mostly comprise low to medium rise residential buildings, as well as also highway commercial developments such as motor showrooms. Chatswood Public School is located within walking distance to the site to the north, and Chatswood High School further to the west.



Figure 1 - Aerial photo of the site and its surrounds (source: Council's GIS System)



Figure 2 – the site as viewed from Pacific Highway and the property to the south of the site on the opposite side of Freeman Road, No 640 – 650 Pacific Highway Chatswood



Figure 3 – No 3 – 5 Freeman Road (adjoining western boundary of the site) as viewed from Pacific Highway at Freeman Road

Relevant History

Planning Proposal

The site was subject of a planning proposal in 2015, which resulted in changes to both the Height of Building and Floor Space Ratio as outlined below:

	Previous standards	Amendment No. 3
Height of Building	18m	RL 137.8 for Tower A and RL 128.8 for Tower B (up to 36.2m & 27.8m)
Floor Space Ratio	2:1	3:1 (with any shop top housing component not exceeding an FSR of 2.14:1)

Amendment No. 3 to *Willoughby Local Environmental Plan 2012*, which inserted Clause 6.21 to *Willoughby Local Environmental Plan 2012* to give effect to the changes to Height of Building and Floor Space Ratio, was made on 18 December 2015. Amendments were made to the *Willoughby Development Control Plan* to incorporate site specific development controls based on the concept proposal considered with the planning proposal.

The planning proposal was accompanied by a Voluntary Planning Agreement (VPA), which is registered on the land titles of the development site. The material public benefits of the VPA involve dedication of land along all three street frontages of the site. These include a strip of land 4m wide along Oliver Road and a 1m wide strip along Freeman Road.

The floor space ratio and height of building as originally approved by DA 2016/18 were in line with the height and floor space ratio prescribed by Amendment No. 3 of WLEP 2012. The current proposal, as amended remains consistent with these development standards and land dedications.

RMS Concurrence

The site is affected by road widening along its frontage to Pacific Highway as required by the Roads and Maritime Services which is identified as that part of the land zoned SP2 (Infrastructure). RMS has raised no objections to the proposal, as amended. See **Attachment 9 – RMS Letter** to this report.

The current modification application is seeking consent to modify the original consent granted by Sydney North Planning Panel on 20 December 2016 for “*Demolition of existing structures and construction of 75 shop top apartments, basement car parking, commercial floor space and associated works*”. A detailed assessment of the proposed development in accordance with ‘*The Matters for Consideration under S79C of the Environmental Planning and Assessment Act 1979*’ is provided in **Attachment 6**.

ATTACHMENT 4 - RELEVANT DEVELOPMENT STATISTICS AND REFERRALS

Development statistics					
		Approved DA-2016/18	Proposed DA-2016/18/A	Standards	Complies
Willoughby Local Environmental Plan 2012					
Cl. 6.21	Site area for bonus floor space and additional height	2608m ² (SP2 Zoned land excluded)	No change	>2400m ²	Yes
	Site Consolidation	Consolidated all site prescribed by Cl 6.21 (1) (Area 7) – Special Provision Map.	No change	(a) Lot 1, DP 1068007, 654–656 Pacific Highway, (b) Lot 1, DP 121830, 658–666 Pacific Highway, (c) Lot 1, DP 839309, 1 Freeman Road, (d) Lot 2, DP 839309, 2A Oliver Road	Yes
	Floor Space Ratio	<2.13:1 (5556m ²) <2.99:1 *(7820m ²) *(does not exclude affordable rental housing)	>2.14:1 (5594m ²) 3:1 *(7827m ²) *(excludes affordable rental housing and excess car parking)	Shop Top - 2.14:1 (5581.1m ²) Overall – 3:1 (7824m ²)	No, shop top housing FSR exceeds by 12.9m ² Complies with overall FSR (not including excess parking within basement levels). The excess parking for residential units is not supported, refer to Amended Condition No. 88
	Height	RL128.5 RL137.5	RL128.7 RL137.7	Tower A – RL128.8 Tower B – RL137.8	Yes Yes

Cl. 6.8	Affordable Rental Housing	Affordable Units = B1.01 B 1.03 B2.02 = 205m ² plus 24.44m ² in contribution	Affordable Units = B1.01 B 1.03 B2.02 = 186m ² plus 37m ² in contribution	4% of accountable total floor space 4% x 5555m ² (residential floor space) = 222.24 m ²	Amended Condition Nos 25 & 27
Willoughby Development Control Plan 2005					
Part E – Commercial / Shop top Housing					
E.1.1	Frontage	>27m	No change	27m for bldg>11m	Yes
E1.2	Density use and height	<30% (access via Freeman Road only) Two levels of commercial floor space	<30% (access via Freeman Road only) Two levels of commercial floor space	No more than 30% of the street frontage is to be used for vehicular and pedestrian access to lower and upper levels. A minimum of 60% gross floor space at street level is to be used for retail or business premises.	Yes Yes
E1.3	Design and Streetscape	No consistent streetscape character. Glazed building façade for commercial levels and street facing balconies on all frontages	No significant change to approved streetscape character. No change.	Reinforce parapet height & street alignment Façade solid: void (60:40)	*Acceptable *Acceptable
E1.5	Building depth	20-23m	No change	20m max.	*Acceptable given good level of solar access and ventilation has been achieved

					for all residential units.
E.1.4	Private Open Space	All comply with the exception of 1 bedroom apartments which have balconies with minimum area of 8m ² .	All comply with the exception of 1 bedroom apartments (A1.02, A2.04, A3.04, A4.04) and 2 bedroom apartments (B2.01, B3.01 & B4.01) which have balconies with minimum area of 6-9m ² .	1 bedroom & 2 bedroom: 10m ² 3 bedroom: 15 m ² 2m width (min)	Over 90% of the total apartments comply with ADG requirements and therefore acceptable.
	Communal Open Space	1080m ² roof top and podium areas	704m ² or 27% roof top and podium areas	750m ² min 5m wide 3 hours solar access	Acceptable as complies with ADG requirement 25%
E1.12	Reflectivity	Details not provided	Details not provided	To avoid glare to adj buildings, passing motorist & pedestrians.	Conditions included in the original consent
E.3.4 -654 – 666 Pacific Highway, 1 Freeman Road and 2A Oliver Road Special Area, Chatswood					
E3.4.2	Height/ Number of storey				
	Tower A	7 Storey	7 Storey	7 Storey	Yes
	Tower B	9 -10 storey	10 storey	10 storey	Yes
	Building separation btw Tower A and B				
	1-4 storey	12.3m	12.1m	12m	Yes
	5-8 storey	>16m	16m not including balcony encroachment	15m	Yes
	Podium Level landscape communal open space area	12.3m	12.1m	12m	Yes
	Setbacks – Oliver Road (As measured from revised	Nil to lower ground floor and ground floor >1m on	3.4m Lower ground floor. The setbacks for remaining	Tower A 6m up to 8 storey 8m – 9 & 10 storey	No – to be addressed by amended Condition No. 5(b)

	boundary post-road widening)	remaining levels	floors remain as approved.		
	Setbacks – Pacific Highway (As measured from revised boundary post-road widening)	2.5m to 7m	The setbacks for Tower A and Tower B remain as approved with the exception of balconies extension on levels 5 to 7. The building setbacks are generally same as approved	Tower A 2m up to 8 storey 6m – 9th & 10th storey Tower B 6m up to 4 storey 9.1m - 5 th storey 11.7m - 6 th storey 17.2m - 7 th storey	No but acceptable as setbacks remain substantially the same as originally approved. Minor balcony encroachment within 4m road widening to be addressed by amended Condition No. 5(c)
	Setbacks – Freeman Road (As measured from revised boundary post-road widening)	Nil to ground floor 2m -3m for levels 1 to 4 5m or more for levels 5 to 7	No change 1.6m – 3m for levels 1 to 4 The building setbacks are generally same as approved with the exception balconies	Tower B 4m up to 4 storey 8m - 5 – 8 storey	No but acceptable as setbacks remain substantially the same as originally approved.
	Vehicular access	Access from Freeman Road only	Access from Freeman Road only. Minor change to the location of access to allow greater service/turning within loading dock	Vehicular access to the site is to be via Freeman Road only.	Yes
	Open space and landscaping	6m wide deep soil planting setback	No change	A minimum deep soil planting setback of 6m along the western boundary of the consolidated site, with screen planting of trees to a mature height of 20 metres and lower level shrubs.	Yes
		20.7%	No change	20% of the	Yes

				Podium Level is to be vegetated area	
	Awning	Awning encroach on the road widening area	The proposal remains non-compliant as awning encroaches on the road widening area.	Proposed awnings and verandas fronting the Pacific Highway are to be setback a minimum of 1.5 metres from the future kerb (subject to road widening).	Addressed by amended Condition No. 5
				Proposed awnings and verandas fronting Oliver Road are to be setback a minimum of 1.5 metres from the future kerb (subject to road widening).	

Part C – General Requirements

C.4	Car parking rate (rounded down)	113 car spaces as per Condition No. 88	143 car spaces as follows: Commercial= 41 Visitors=18 Residential= 84 Total = 143 or 30 spaces above the required	Business premise 1/110m ² (within a railway precinct) (2279/110) = 20 Visitor spaces- 1/ 4 dwellings = 18 1 per dwelling Req = 75 spaces Total: 113 car spaces	Additional commercial parking is supported. Additional residential parking to be removed, refer to amended Condition No. 88
	Loading Bay	Loading bay for Medium Rigid Vehicles	Loading bay for Medium Rigid Vehicles with internal reconfiguration to improve serviceability	1 x Loading Bay	Yes
	Motorcycles/ bicycles	3 motorcycle bays	3 motorcycle bays	1 motorcycle bay/25 car spaces (	Yes

		18 bike lockers	18 bike lockers	spaces) = 3 1 bike locker per 10 units = 7.2 1 bike rack per 12 units = 6	
C.8	Waste Management	Separate residential and commercial bin rooms provided together with access for a medium rigid vehicle (commercial waste)	Minor reconfiguration to the approved residential and commercial bin rooms. Reduction in bin room size from 5000mm x 4000mm to 4000mm x 4000mm No change to access for a medium rigid vehicle (commercial waste)	Suitable access Design & dimensions	Acceptable subject to no change to Condition No. 41 stipulating the bin room size
C.6	Adaptable Housing	40 units	36 units	50% of 72 Units (36 units)	Yes
	Adaptable Car spaces	10	15 adaptable car spaces	1 adaptable car space/4 adaptable units 9 spaces	Yes

Referrals	
<u>Internal</u>	
Development Engineers	Subject to conditions
Environmental Health	No objections, no additional conditions
Waste Coordinator	No objections subject to conditions
Building Services	No objections, no additional conditions
<u>External</u>	
Roads and Maritime Services	No objections, no additional conditions

ATTACHMENT 5 - SEPP 65/ APARTMENT DESIGN GUIDE - KEY DESIGN CRITERIA

Requirement	Proposed	Complies												
PART 03: SITING THE DEVELOPMENT														
3F Visual Privacy*														
<u>Objective 3F-1: Design Criteria 1.</u> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: <table border="1"> <thead> <tr> <th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr> </thead> <tbody> <tr> <td>up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table> Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (see figure 3F.2). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.	Building height	Habitable rooms and balconies	Non-habitable rooms	up to 12m (4 storeys)	6m	3m	up to 25m (5-8 storeys)	9m	4.5m	over 25m (9+ storeys)	12m	6m	The separation distance between Tower A and Tower B for Level 5-8 remain non-compliant with this provision. However, the separation distance between Tower A and Tower B was predetermined by the site specific provision in Part E3.4 of the WDCP. The prescribed building envelope of the WDCP provided no opportunity to practically increase the separation distance between Tower A and Tower B during assessment and determination of the original proposal. The proposal, as amended maintains the separation distance between Tower A and Tower B for levels 1-4. Minor reduction of 1m on level 5 due to balcony extension for units 5.01 and 5.02	Acceptable
Building height	Habitable rooms and balconies	Non-habitable rooms												
up to 12m (4 storeys)	6m	3m												
up to 25m (5-8 storeys)	9m	4.5m												
over 25m (9+ storeys)	12m	6m												
3J Bicycle and Car Parking														
<u>Objective 3J-1: Design Criteria 1.</u> For development in the following locations: - On sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area (including Willoughby LGA); or - On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less. The car parking needs for a development must be provided off street.	The site is located within 350m from Chatswood Railway Station. The proposal, as amended provides 143 car spaces which include 84 (72 required) residential car spaces and 18 visitor car spaces.	No – addressed by way of amended Condition No. 88												
PART 04: DESIGNING THE BUILDING														
4A Solar and Daylight Access*														
<u>Objective 4A-1: Design Criteria 1.</u> Living rooms and private open spaces of at least 70% of apartments in a building receive a	> 90%	Yes												

Requirement	Proposed	Complies												
minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas (includes Willoughby LGA)														
<u>Objective 4A-1: Design Criteria 3.</u> A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	<10%	Yes												
4B Natural Ventilation*														
<u>Objective 4B-3: Design Criteria 1</u> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only in any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	> 70%	Yes												
<u>Objective 4B-3: Design Criteria 2</u> Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	<18m	Yes												
4C Ceiling Heights*														
<u>Objective 4C-1: Design Criteria 1.</u> Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <table><tr><th colspan="2">Minimum ceiling height for apartment and mixed use buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table> These minimums do not preclude higher ceilings if desired	Minimum ceiling height for apartment and mixed use buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area	Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	All floor to ceiling heights remain compliant with the minimum ceiling height requirements.	Yes
Minimum ceiling height for apartment and mixed use buildings														
Habitable rooms	2.7m													
Non-habitable	2.4m													
For 2 storey apartments	2.7m for main living area floor 2.4m for second floor, where its area does not exceed 50% of the apartment area													
Attic spaces	1.8m at edge of room with a 30 degree minimum ceiling slope													
If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use													
4D Apartment Size and Layout*														
<u>Objective 4D-1: Design Criteria 1.</u> Apartments are required to have the following minimum internal areas: <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table> The minimum internal areas include only one bathroom. Additional bathrooms increase the	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	No studio apartment proposed. All apartments, as amended continue to meet the minimum size.	Yes		
Apartment type	Minimum internal area													
Studio	35m ²													
1 bedroom	50m ²													
2 bedroom	70m ²													
3 bedroom	90m ²													

Requirement	Proposed	Complies
minimum internal area by 5m² each. A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.		
<u>Objective 4D-1: Design Criteria 2.</u> Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms	The proposed towers, as amended continue to provide good daylight access to all proposed habitable rooms.	Yes
<u>Objective 4D-2: Design Criteria 1.</u> Habitable room depths are limited to a maximum of 2.5 x the ceiling height	Habitable rooms have minimum ceiling heights of 2.7 – 3m and maximum room depth of no greater than 7.5m (with the exception of open plan combined living / kitchen space).	Yes
<u>Objective 4D-2: Design Criteria 2.</u> In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	Maximum 8m.	Yes
<u>Objective 4D-3: Design Criteria 1.</u> Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space)	The proposed bedrooms comply or exceed requirements.	Yes
<u>Objective 4D-3: Design Criteria 2.</u> Bedrooms have a minimum dimension of 3m (excluding wardrobe space)	Minimum 3m or greater provided.	Yes
<u>Objective 4D-3: Design Criteria 3.</u> Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments	Minimum 4m or greater proposed.	Yes
<u>Objective 4D-3: Design Criteria 4.</u> The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts	Proposed Apartments, as amended remain single aspect or corner apartments.	N/A
4E Private Open Space and Balconies*		

Requirement	Proposed	Complies															
<u>Objective 4E-1: Design Criteria 1</u> All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum area</th><th>Minimum depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table> The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Dwelling type	Minimum area	Minimum depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	All comply with the exception of 1 bedroom apartments (A1.02, A2.04, A3.04, A4.04) and 2 bedroom apartments (B2.01, B3.01 & B4.01) which have balconies with minimum area of 6-9m². 3 bedroom apartments where depths are less than 2.4m but are compensated by greater areas.	Acceptable.
Dwelling type	Minimum area	Minimum depth															
Studio apartments	4m ²	-															
1 bedroom apartments	8m ²	2m															
2 bedroom apartments	10m ²	2m															
3+ bedroom apartments	12m ²	2.4m															
<u>Objective 4E-1: Design Criteria 2</u> For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.	No ground floor apartments	N/A															
4F Common Circulation and Spaces*																	
<u>Objective 4F-1: Design Criteria 1</u> The maximum number of apartments off a circulation core on a single level is eight. However, if this is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.	Max 8 apartments.	Yes															
<u>Objective 4F-1: Design Criteria 2</u> For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40	N/A	N/A															
4G Storage*																	
<u>Objective 4G-1: Design Criteria 1</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table> At least 50% of the required storage is to be located within the apartment	Dwelling type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	Designated storage areas in addition to any internal storage spaces are provided within the basement car park area.	Yes					
Dwelling type	Storage size volume																
Studio apartments	4m ³																
1 bedroom apartments	6m ³																
2 bedroom apartments	8m ³																
3+ bedroom apartments	10m ³																

ATTACHMENT 6 - SECTION 79C ASSESSMENT

Matters for Consideration Under S.79C of EP&A Act		
	Satisfactory? (Yes/No /N/A)	
(a)(i)	The provisions of any environmental planning instrument (EPI)	
	State Environmental Planning Policies (SEPP)	Yes
	Regional Environmental Plans (REP)	Yes
	Local Environmental Plans (LEP)	Yes
	WLEP 2012: Zoning: With the exception of a 4m strip of land required for road widening by the RMS along the Pacific Highway frontage of the site, the subject land is zoned B5 – Business Development. Commercial premises and shop-top housing remains permissible in the B5 Business Development zone. The mixed-use development, as amended will assist in revitalising the existing commercial area and will provide additional residential accommodation at an accessible location consistent with the objectives of the B5 zone.	
	Road widening: That part of the site zoned SP2 is subject to road widening. The RMS has reviewed the modification application and has raised no objections to the development. Please see RMS correspondence in Attachment 8. Additional road widenings as originally proposed and approved along Freeman Road and Oliver Road in accordance with the VPA registered on the land, remain unchanged. The road widening will continue to facilitate future traffic improvement works by Council and by the RMS.	
	Development Standards: The consolidated development site, as originally approved is subject to bonus floor space ratio and building height as contained in <u>Clause 6.21</u> of WLEP 2012. The development, as modified continues to comply with the Floor Space Ratio and Height of Building development standards as provided in the Development Statistic Table in Attachment 4 of this report.	

	Affordable Housing Contributions: The site is subject to Affordable Housing provisions in accordance with <u>Clause 6.8</u> of WLEP 2012. The development, as modified continues to provide 4% of the total residential floor space as affordable housing contributions, including three affordable housing units and the remainder (37m²) in the form of monetary contributions.	
	SEPP 65: The original application was reviewed by Council's External Urban Design Consultant prior to approval. The proposed internal and external amendments have been designed to comply with access to sunlight, natural ventilation, visual and acoustic privacy and storage. The general layout across the site is similar to that approved. The amendments are consistent with SEPP 65 - Design Quality of Residential Flat Development principles of context and neighbourhood character, built form and scale, density, sustainability, landscape, amenity, safety, housing diversity and social interaction as well as aesthetics. Achievements reached against the design quality principles set out in Part 2 of SEPP 65 and the Design Criteria contained in the Apartment Design Guide are not affected in a degree to require re-assessment of performance. The modified scheme provides consistency with the design principles and the proposal is assessed to remain satisfactory in this regard.	
	SEPP (BASIX) & SEPP (Infrastructure): The proposed development has submitted a revised BASIX certificate to satisfy SEPP (BASIX). A revised Acoustic Report has been submitted. The proposal, as modified, can meet acoustic criteria as per Clause 102 of SEPP (Infrastructure) due to the site's frontage to an arterial road, Pacific Highway. SEPP 55: A preliminary site assessment report was submitted and considered satisfactory by Council's Environmental Health Officer prior to the approval of original development application. A revised preliminary site assessment report is therefore not considered necessary. SREP (Sydney Harbour Catchment): There is no specific matter contained in SREP (Sydney Harbour Catchment) that applies to the proposed development.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	• Draft State Environmental Planning Policies (SEPP)	N/A
	• Draft Regional Environmental Plans (REP)	N/A
	• Draft Local Environmental Plans (LEP)	N/A
(a)(iii)	Any development control plans	

	• Development control plans (DCPs)	
	WDCP: The proposed development, as modified has been assessed against the relevant requirements of the WDCP, and is considered satisfactory. Specific non-compliances are identified and addressed in Attachment 4 - Development Statistics and by the recommended conditions of consent as relevant.	
	<i>Site-specific provisions:</i> Part E.3.4 of the WDCP contains site specific development provisions prescribing a building envelope and setbacks. The current development generally maintains the building envelope setbacks approved by original DA-2016/18/A.	
	<i>Overshadowing:</i> The proposal, as modified will cause minimal additional overshadowing to the adjoining developments when compared to the approved development. These additional shadowing impacts are negligible due to the overshadowing impacts of the proposed development being overlapped with shadows caused by other taller buildings to the north such as the Meriton Towers at Albert Ave and other developed sites along Pacific highway at the same times.	
	<i>Car parking:</i> The proposal, as amended provides a total of 143 car parking spaces, 30 spaces above the requirement under Part C.4 of WDCP. In this regard, 12 additional spaces are proposed for shop top housing units with 3 bedrooms and large 2 bedrooms and 20 additional commercial spaces. It is acknowledged that additional car parking spaces are proposed to be located within basement 3 and therefore will not materially change the built form. Notwithstanding, it will encourage greater car ownership for residents despite the site's accessible location. The additional residential car parking spaces are contrary to Chatswood CBD Planning and Urban Design Strategy recently approved by Council. This strategy together with the existing WDCP car parking controls aims to encourage use of public transport in areas close to transport nodes. In this regard, the subject site is located within the CBD and is well served by a variety of public transport systems such as trains and buses. The allocation of additional car parking spaces for residential use is therefore not supported. This issue is addressed by recommended Condition No. 88 (as amended) which requires the allocation of a maximum of 1 car space per shop-top housing unit. Allocation of the additional 20 car parking spaces for commercial use is supported as it will provide greater flexibility with regard to the future use of the approved commercial tenancies.	

	<i>Engineering Comments:</i> Council's Engineering Section had requested additional information which mainly related to manoeuvrability, ramp widths, overhead clearances and the like within the site. These matters are already included as Condition No. 6 within the original consent. Accordingly, the additional information requested will be forwarded to the Certifying Authority prior to issue of a Construction Certificate.	
	<i>Waste Management:</i> The Waste Management Plan submitted with the current proposal outlines the applicant's commitment to "<i>ensuring waste is managed to reduce the amount of recyclables entering landfill</i>". In this regard, the approved and the current proposal provides waste chutes on each level and recycling bins are only provided on the ground floor level, which will not encourage residents to separate waste and recyclables. This is addressed by way of amended Condition No. 5(h). In addition, Council's Waste Officer notes that the Waste Management Plan suggests a compaction ratio of 2:1 for garbage. This is not a workable ratio as this rate of compaction results in garbage getting stuck in the bins. Council recommends a compaction ratio of 1.5:1. This is addressed by way of amended Condition No. 40.	
(a)(iv)	Any matters prescribed by the regulations	
	• Clause 92 EP&A Regulation-Demolition	Yes
	• Clause 93 EP&A Regulation-Fire Safety Considerations	Yes
	• Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings	N/A
(b)	The likely impacts of the development	
	• Context & setting	Yes
	• Access, transport & traffic, parking	Yes
	• Servicing, loading/unloading	Yes, subject to conditions
	• Public domain	Yes
	• Utilities	Yes
	• Heritage	N/A
	• Privacy	Yes
	• Views	Yes
	• Solar Access	Yes
	• Water and draining	Yes
	• Soils	Yes
	• Air & microclimate	Yes
	• Flora & fauna	Yes
	• Waste	Yes

	• Energy	Yes
	• Noise & vibration	Yes
	• Natural hazards	Yes
	• Safety, security crime prevention	Yes
	• Social impact in the locality	Yes
	• Economic impact in the locality	Yes
	• Site design and internal design	Yes
	• Construction	Yes
	• Cumulative impacts	Yes
	Comment: The proposed development, as modified is considered to have an acceptable impact on the public domain and adjoining properties with regard to visual bulk, overshadowing and privacy.	
(c)	The suitability of the site for the development	
	• Does the proposal fit in the locality?	Yes
	• Are the site attributes conducive to this development?	Yes
	Comments: The proposed development, as amended remains consistent with the strategic planning framework that applies to the site as a result of Amendment No 3 to the WLEP 2012.	
(d)	Any submissions made in accordance with this Act or the regulations	
	• Public submissions	Yes
	• Submissions from public authorities	Yes
	Comments: Specific issues of concern raised in public submissions regarding the proposal are addressed in Attachment 8 – Submission Table .	
(e)	The public interest	
	• Federal, State and Local Government interests and Community interests	Yes
	Comment: The proposed development is considered to be consistent with the objectives of B5 – Business Development zone and will not have unreasonable amenity impacts on adjoining developments or the public domain.	

ATTACHMENT 7 - NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: DA-2016/18/A

At: 654 Pacific Highway, 666 Pacific Highway, 1 Freeman Road and 2A Oliver Road,

CHATSWOOD NSW 2067



Comments:

-

Created on : Wednesday, 26 July 2017

Created by : CN

Caveat

The information represented in this map has been provided in good faith. Detailed records relating to this Development Application are recorded in Council's "Pathway" software application and this data should be seen as Council's official source of information relating to this Development Application.

Willoughby City Council
31 Victor Street
Chatswood NSW 2067

PO Box 57 Chatswood NSW 2057
www.willoughby.nsw.gov.au

Phone 02 9777 1000 Fax 02 9411 8309
Email email@willoughby.nsw.gov.au
ABN 47 974 826 099

ATTACHMENT 8 – - SUBMISSION TABLE

A total of three (3) submissions were received from the following properties:

- Units 1 and 3, 3-5 Freeman Road, Chatswood;
- 3-5 Freeman Road, Chatswood; and
- 32/1 Eddy Road, Chatswood.

The submissions raised the following concerns which are summarised under respective headings in the table below:

<u>High Density and Height:</u> <i>High Density of the residential block is a concern. The proposed increase in building height to 11 floors would have detrimental impact on existing residence at 3-5 Freeman Road.</i>
Comments: The greater density and building height proposed for the site was reviewed through a strategic planning process, including a planning proposal that was publicly exhibited from 1 October 2014 – 29 October 2014. The planning proposal was accompanied by a concept proposal and its impacts such as building scale and character were considered satisfactory. Council subsequently supported the increase in density and building height for the site, and amendment to the Willoughby Local Environment Plan 2012 was made in 2015. The proposed development, as amended remains consistent with the strategic planning outcomes set by the site specific amendment to the <i>Willoughby Local Environmental Plan 2012</i> to redevelop the site to higher density subject to site consolidation. Further, Clause 6.21 of <i>Willoughby Local Environmental Plan 2012</i> stipulates RL 137.8 for Tower A and RL 128.8 for Tower B which equates up to 36.2m & 27.8m building height respectively. The current proposal is fully compliant as it provides RL 137.7 for Tower A and RL 128.7 for Tower B. The current proposal remains compliant with the floor space ratio and height of building development standards applicable to the land.
<u>Privacy, Natural Light and Overshadowing:</u> <i>The proposal will have impact on the privacy of adjoining residential building. It will completely cover and block visibility of the sky and natural daylight and concerns</i>
Comments: The site is bounded by Pacific Highway, Freeman Road and Oliver Road on three sides and therefore the existing developments on these streets separated by the road reserves. The current proposal generally maintains the previously approved setbacks to adjoining developments and reduces the total number of units from 75 to 72 (DA 2016/18).

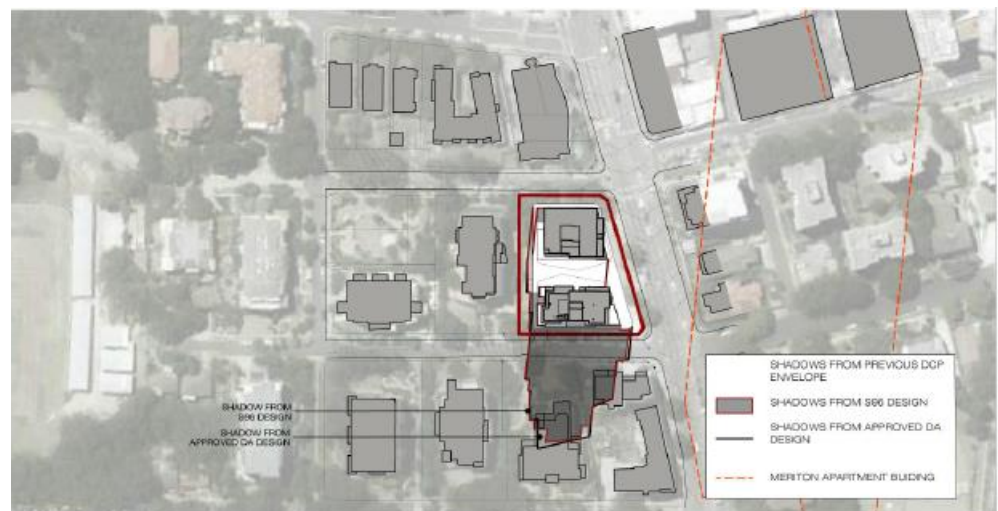
Units 10.01 and 10.02 as proposed on level 10 instead of roof top communal space provide more than 10m setback from the western boundary. This setback is considered sufficient in maintaining privacy to and from the development.

With regard to overshadowing, the applicant has submitted hourly shadow diagrams depicting shadow cast from the approved design (DA 2016/18) and from the current proposal, as shown below:





11:00 AM 21 JUNE



12:00 PM 21 JUNE



1:00 PM 21 JUNE



2:00 PM 21 JUNE



3:00 PM 21 JUNE

The extent of overshadowing is not unreasonable based on the permissible height and floor space ratio, and the specific building envelope prescribed by the site specific provisions contained in Part E.3.4 of the WDCP. The extent of additional overshadowing from the current proposal is minimal. The proposed development is therefore considered to be satisfactory.

Appearance:

The appearance of the proposed development is dark and distinct, splits the development into towers

Comments:

The original development application was reviewed by an external/ independent urban design consultant commissioned by Council. The urban design review noted that building articulations and the aesthetic of the proposed built forms were successful. The current proposal is considered to be architecturally appealing and provides acceptable appearance.

Commercial Use:

The commercial shops should consider existing public facilities and amenities, must be environmentally friendly and appropriate for the local community

Comments:

Any future use of the commercial tenancy is subject to lodgement of a separate Development Application.

Property Value:

The property value would be negatively impacted, should be financially compensated

Comments:

There is no evidence to suggest that the proposed development will have a negative impact on the property value of the adjoining developments.

ATTACHMENT 9 – VOLUNTARY PLANNING AGREEMENT



Our ref: SKT 150725

28 October 2015

Mr Bernard Chiu
Bernard Chiu Legal & Business Solutions
Level 18, Citigroup Centre
2 Park Street
SYDNEY NSW 2000

Dear Bernard

**Daraki Holdings Pty Ltd sale to JL Chatswood Pty Ltd
Registration of Voluntary Planning Agreement (VPA)
Property: 660 Pacific Highway, Chatswood**

We hereby give you notice that the VPA has been duly registered.

We **enclose** a copy of the registered VPA for your records.

In accordance with clause 7.1(b), the completion date is 18 December 2015.

We look forward to receiving the Transfer urgently as it has to be sent overseas for execution by our client.

Yours faithfully
HICKSONS

A handwritten signature in black ink, appearing to read 'Siew Tong', with a long horizontal flourish extending to the right.

Siew Tong
Partner
t: +61 2 9293 5458
f: +61 2 9264 4790
e: siew.tong@hicksons.com.au

Encl.

Form: 11R
Release: 4-1

REQUEST

New South Wales
Real Property Act 1900



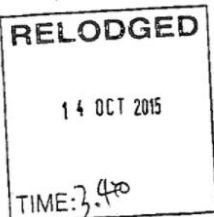
AJ832765W

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar-General to collect information by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(A) STAMP DUTY	If applicable. Office of State Revenue use only		
(B) TORRENS TITLE	Folio Identifiers 1/1068007, 1/121830, 1/839309 and 2/839309		
(C) REGISTERED DEALING	Number	Torrens Title	
(D) LODGED BY	Document Collection Box 1010Q	Name, Address or DX, Telephone, and Customer Account Number if any Wee & Wells, Solicitors & Attorneys LLPN 1237224 1308/370 Pitt Street, Sydney NSW 2000, Ph: 9283 9833 Reference: GBW:1161	CODE R
(E) APPLICANT	DARAKI HOLDINGS PTY LIMITED (ACN 003 304 032)		
(F) NATURE OF REQUEST	Registration of Planning Agreement pursuant to s93H of the Environmental Planning and Assessment Act 1979		
(G) TEXT OF REQUEST	Registration on title of the document annexed as "B" to this request, being the Voluntary Planning Agreement - 654-666 Pacific Highway, 2A Oliver Road and 1 Freeman Road, Chatswood NSW entered into between Willoughby City Council and the Applicant, dated 25 June 2015		

DATE

(H)



Certified correct for the purposes of the Real Property Act 1900 on behalf of the applicant by the person whose signature appears below.

Signature:

Signatory's name:
Signatory's capacity:

Gregory Bernard Wee
solicitor

(I) This section is to be completed where a notice of sale is required and the relevant data has been forwarded through eNOS.

The applicant certifies that the eNOS data relevant to this dealing has been submitted and stored under eNOS ID No. Full name: Signature:

* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

ALL HANDWRITING MUST BE IN BLOCK CAPITALS

Page 1 of 16

1303

CT Prod 322A on 13/8/15
FOR THIS DLG M

Annexure A to Request

Parties: Daraki Holdings Pty Limited (as applicant) and Willoughby City Council, HSBC Bank Australia Limited and EARP Brothers Hardware Pty Limited (as consenting parties)

Dated:

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the Authority named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Authority: Willoughby City Council

Signature of authorised delegate:
Signature of Witness:

Name of authorised delegate:

Office held: Name of Witness: CRAIG O'BRIEN

Address of Witness: LEVEL 4
31 VICTOR STREET
CHATSWOOD NSW 2067

Signature of authorised delegate:

Name of authorised delegate: LINOR MCCLURE

Office held: STRATEGIC PLANNING
MANAGER

~~Certified correct for the purposes of the Real Property Act 1900~~

~~and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.~~

~~Company: HSBC Bank Australia Limited
Authority: section 127 of the Corporations Act 2001~~

~~Signature of authorised person:~~

~~Signature of authorised person:~~

~~Name of authorised person:~~

~~Name of authorised person:~~

~~Office held:~~

~~Office held:~~

101 with 10
amended
note
Y initial
initial
full name

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: EARP Brothers Hardware Pty Limited
Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: RICHARD EARP

Office held: ROBERT EARP / DIRECTOR

Signature of authorised person:

Name of authorised person: MICHAEL EARP

Office held: DIRECTOR / SECRETARY

I certify that I am an eligible witness and that the mortgagee's attorney signed this dealing in my presence.

Signature of witness: X

Name of witness:

Address of witness:

~~Certified correct for the purposes of the Real Property Act 1900 by the mortgagee's attorney who signed this dealing pursuant to the power of attorney specified.~~

~~Signature of attorney:~~

~~Attorney's name:~~

~~Signed on behalf of:~~

~~Power of attorney made:~~

~~date:~~

Willoughby City Council

Daraki Holdings Pty Limited

Voluntary Planning Agreement – 654-666 Pacific Highway, 2A Oliver Road and 1 Freeman Road, Chatswood

PLANNING AGREEMENT No. _____ of 201

Section 93F of the Environmental Planning and Assessment Act 1979

Date TWENTY FIFTH OF JUNE 2015

Parties

Willoughby Council of New South Wales (Council)

Daraki Holdings Pty Ltd ACN 003 304 032 of 129/421-473 Pacific Highway,
Artarmon NSW 2064 (Developer)

Background

- Handwritten:* On 2 June 2014 the Developer, who is the owner of the Land, submitted a Planning Proposal Application to the Council to amend Willoughby Local Environment Plan 2012 for the purpose of making a Development Application to the Council for Development Consent to carry out the Development on the Land (**Planning Proposal**).
- A** *Handwritten signature*
- B** The Planning Proposal seeks an amendment to Willoughby Local Environment Plan 2012 (**WLEP 2012**) to increase the floor space ratio to 3:1 on a site exceeding 2,400 metres, with the floor space ratio of any shop top housing no exceeding 2.14:1 and increase the height to RL 137.8 for Tower A and RL 128.8 for Tower B.
- C** The Planning Proposal was accompanied by an offer by the Developer to enter into this Agreement to make Development Contributions towards the material Public Benefits if that Planning Proposal proceeds.

Operative provisions

1 Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

2 Application of this Agreement

This Agreement applies to the Planning Proposal for the Land and the Dedication Land.

3 Operation of this Agreement

The parties agree that this Agreement operates and binds both the parties on and from the date this Agreement is entered into by the parties.

4 Definitions and interpretation

4.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

Dedication Land means those parts of the Land which are hatched and identified as the "PROPOSED DEDICATION TO WILLOUGHBY COUNCIL" on the plan annexed to this Agreement at Schedule 1, which parts lie on the Oliver Road and Freeman Road boundaries of the Land. For the avoidance of doubt, the Dedication Land does not include the land identified as "ROAD WIDENING AREA BY RTA" which lies on the Pacific Highway boundary of the Land.

Development means the demolition of all existing buildings on the Land and construction in their place of a mixed used development with basement parking, retail/office/business premises and shop top housing consistent with the Planning Proposal.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means, collectively, the land contained in Lot 1 in DP 1068007, Lot 1 in DP 121830, Lot 1 in DP 839309 and Lot 2 in DP 839309.

Party means a party to this agreement, including their successors and assigns.

Planning Proposal has the meaning given to it in paragraph A of the Background.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

WLEP 2012 has the meaning given to it in paragraph B of the Background.

4.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to a "business day" means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (e) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word "include" or "including" are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.

- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.

5 Development Contributions to be made under this Agreement

- 5.1 The Developer agrees that if the Planning Proposal proceeds to gazettal of an amendment to WLEP 2012 to enable a Development Application to be lodged for Development Consent to carry out the Development, it will provide the Development Contribution described in Schedule 2 by the due date specified in Column 3 of Schedule 2 and as otherwise provided in this Agreement.
- 5.2 The Developer shall include in a Development Application lodged in respect of the Development the Development Contribution set out in Schedule 2 of this Agreement and must:
 - (a) comply with any condition of Development Consent requiring provision of the Development Contribution; and
 - (b) not seek to amend such conditions of Development Consent; and
 - (c) not appeal to the Land and Environment Court in respect of the same; and
 - (d) not take any other action to avoid complying with such conditions, provided that the conditions on the Development Consent for the Development reflect and are not inconsistent with the agreement between the parties regarding the Development Contribution set out in this Agreement.

6 Application of Sections 94, 94A and 94EF of the Act to the Development

This Agreement does not otherwise exclude the application of sections 94, 94A and 94EF of the Act to the Development.

7 Registration of this Agreement

The Developer must arrange for registration of this Agreement at LPI NSW by lodgement of Request forms duly executed by the Developer with copies of this Agreement annexed within one (1) month of the date of this Agreement.

8 Review of this Agreement

This Agreement is final and binding as between the parties, and cannot be reviewed under any circumstances.

9 Dispute Resolution

- 9.1 If a party claims that a dispute has arisen under this planning agreement (**Claimant**), it must give notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).
- 9.2 Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.
- 9.3 The nominated representatives must:
- (a) Meet to discuss the matter in good faith within 10 business days after the Respondent has given a notice advising of its representatives; and
 - (b) Use reasonable endeavours to settle or resolve a dispute within 15 business days after they have met.
- 9.4 If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a notice calling for the termination of the dispute (**Dispute Notice**).
- 9.5 The parties agree that a dispute will be mediated if it is the subject of a Dispute Notice, in which case:
- (a) The parties must agree to the terms of reference for the mediation within 5 business days of receipt of the Dispute Notice, the terms shall include a requirement that the mediation rules at the Institute of Arbitrators and Mediators Australia (NSW Chapter) applies;
 - (b) The mediator will be spread between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
 - (c) The mediator appointed pursuant to clause (b) must:
 - (i) Have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) Have no interest or duty that conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
 - (d) The mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;

- (e) The parties must within 5 business days of receipt of the Dispute Notice notify each other if their representatives will be involved in the mediation;
- (f) The parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of the mediation settlement for the purposes of enforcing that mediation settlement;
- (g) In relation to costs and expenses:
 - (i) each party will bear their own professional and expert costs incurred in connection with the mediation; and
 - (ii) the costs of the mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full cost of the mediation be borne by that party.

10 Enforcement

The Developer acknowledges and agrees that any excavation or construction work to be carried out on the Land the subject of the Development Application or the Development Consent in relation to the Development must be deferred until such time as a plan of consolidation and subdivision dedicating the Dedication Land has been registered.

11 Notices

11.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.
- (c) Emailed to that Party at its email address set out below.

Council

Attention: Strategic Planner
Address: PO Box 57, Chatswood NSW 2057
Fax Number: 9777 1038
Email: email@willoughby.nsw.gov.au

Developer

Attention: Mr Lawrence Tam

Address: PO Box 261, Chatswood NSW 2067

Fax Number:

Email: ltams@iinet.com.au

- 11.2 If a Party gives the other Party three (3) business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or
- 11.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, 2 business days after it is posted.
 - (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 11.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

12 Approvals and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

13 Assignment and Dealings

If the Developer proposes to sell, transfer or dispose of the whole (or any part) of the Land and/or the Development Consent prior to the Development being completed and the Dedication Land being dedicated, the Developer must:

- (a) notify Council no later than twenty-eight (28) days prior to completion of any sale, transfer or disposal; and
- (b) register this Agreement at LPI NSW prior to the sale, transfer or disposal of the Land.

14 Costs

- 14.1 The Developer will be responsible for preparing and submitting and paying for the draft of this Agreement to Council for its approval.
- 14.2 Each party shall be responsible for their costs thereafter in checking and executing this Agreement.
- 14.3 All costs associated with the provision of the Development Contribution described in Schedule 2 are to be paid by the Developer.

15 Entire agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

16 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

17 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

18 Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

19 No fetter

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

20 Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

21 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

22 Modification

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

23 Waiver

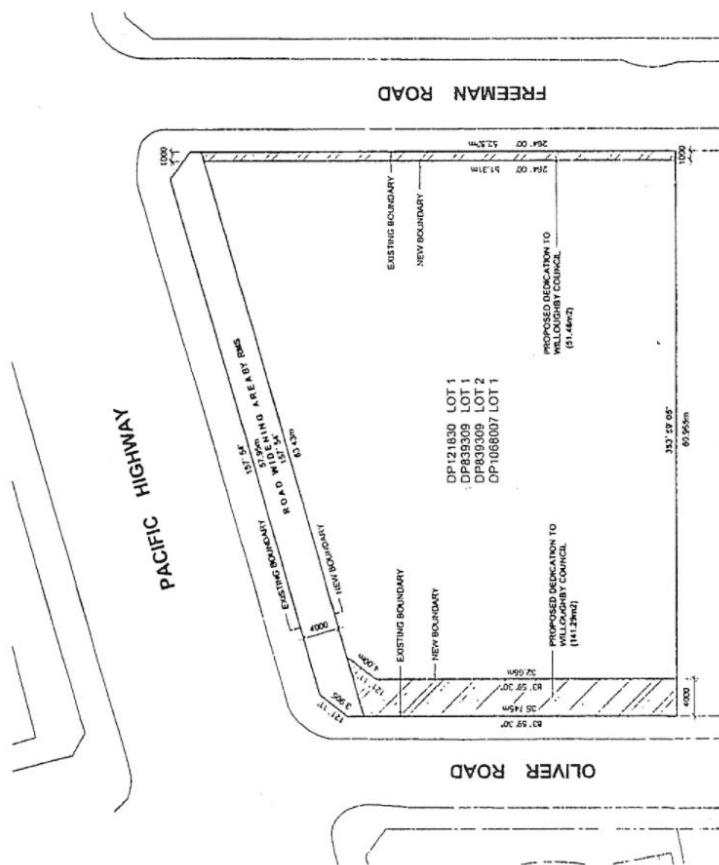
The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

24 GST

If any Party reasonably decides that it is liable to pay GST on a supply made to the other Party under this Agreement and the supply was not priced to include GST, then recipient of the supply must pay an additional amount equal to the GST on that supply.

Schedule 1 – Plan of Dedication Land

Note: Services and infrastructure associated with the development site are to be located outside of the dedicated land and wholly within the development site.



DEDICATION AREA

Rev	Date	Description	Architect	Client	Project	Sheet	Date	Project No.	Drawing No.
13	1/14/11	ROAD RECONSTRUCTION	MG MAGNETIC GROUP 1000 10th Ave. S. Suite 100 Birmingham, AL 35204 Phone: (205) 944-1000 Fax: (205) 944-1001 Email: info@magneticgroup.com Website: www.magneticgroup.com	DEBART HOLDINGS PTY LTD 1000 10th Ave. S. Suite 100 Birmingham, AL 35204 Phone: (205) 944-1000 Fax: (205) 944-1001 Email: info@magneticgroup.com Website: www.magneticgroup.com	ROAD RECONSTRUCTION DEVELOPMENT	1	1/14/11	1000 10th Ave. S. Suite 100 Birmingham, AL 35204 Phone: (205) 944-1000 Fax: (205) 944-1001 Email: info@magneticgroup.com Website: www.magneticgroup.com	A1.15

Schedule 2 – Development Contributions

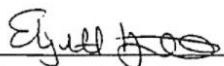
Column 1 – Development Contribution	Column 2 – Intended use/purpose	Column 3 – Date by which the Development Contribution is to be provided
The dedication of the Land as depicted on the indicative plan in Schedule 1 to Council as a public road for the purpose of road widening on Oliver Road and Freeman Road, including: (a) the transfer of ownership of the Dedication Land to Council on the Torrens register; (b) the clearance of all structures from the Dedication Land and the remediation of the same; (c) the provision to Council of a site audit statement for the Dedication Land which declares that land to be free of contamination or, if contamination is allowed, that the Dedication Land has been remediated to an acceptable standard under the relevant NSW environmental legislation for the undertaking of road widening works.	Public road / road widening works.	[On or before the date works commence in accordance with a Development Consent for the Development]

Execution



Executed as an agreement.

SIGNED for and on behalf of **WILLOUGHBY CITY COUNCIL**
by its authorised delegates:



Signature of Witness
ELIZABETH KEELING
c/- 31 VICTOR ST, CHATSWOOD

Name and address of Witness (print)



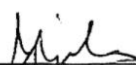
Signature of General Manager
DEBRA JUST

Debra Just



Signature of Witness
TRICIA WOON
c/- 31 VICTOR ST, CHATSWOOD

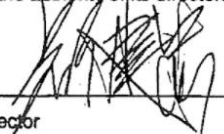
Name and address of Witness (print)



Signature of Mayor
GAIL GILES-GIDLEY

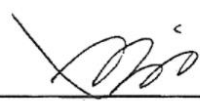
Gail Giles-Gidley

EXECUTED by **DARAKI HOLDINGS PTY LIMITED**
under section 127(1) of the Corporations Act 2001 (Cth)
by the authority of its directors:



Director
KIN CHUNG LUI

Name of Director



Director/Company Secretary
SIU WAH LUI

Name of Director/Company Secretary



FILM WITH A-382765

ANNEXURE TO VOLUNTARY PLANNING AGREEMENT

**ST.GEORGE BANK – A DIVISION OF WESTPAC BANKING CORPORATION
A.B.N 33 007 457 141 HEREBY CONSENTS TO THE ATTACHED VOLUNTARY PLANNING
AGREEMENT**

Registered Proprietor: Daraki Holdings Pty Ltd ACN 003 304 032

Affecting Certificate of Title Folio Identifiers: 1/121830

I certify that I am an eligible witness and that the mortgagee
signed this dealing in my presence.
[See note* below]

Signature of witness

Name of witness: Tanja Smith

Address of witness: 1 King Street
Concord West NSW 2138

Certified correct for the purposes of the Real Property Act 1900 by the
mortgagee.

SIGNED by Vic Trajceviski
as attorney for St. George – A division of Westpac Banking Corporation
ABN 33 007 457 141 under power of attorney dated 17 January 2001
registered Book 4299 No.332

Signature of Three Attorneys

By executing this instrument the attorney states that the attorney has
received no notice of the revocation of the power of attorney.

*s117 RP Act requires that you must have known the
signatory for more than 12 months or have sighted identifying
documentation.

ANNEXURE.DOT

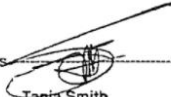
ANNEXURE TO VOLUNTARY PLANNING AGREEMENT

**ST.GEORGE BANK – A DIVISION OF WESTPAC BANKING CORPORATION
A.B.N 33 007 457 141 HEREBY CONSENTS TO THE ATTACHED VOLUNTARY PLANNING
AGREEMENT**

Registered Proprietor: Daraki Holdings Pty Ltd ACN 003 304 032

Affecting Certificate of Title Folio Identifiers: 1/1068007

I certify that I am an eligible witness and that the mortgagee
signed this dealing in my presence.
[See note* below]

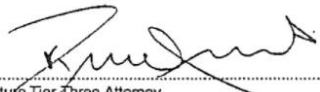
Signature of witness: 

Name of witness: Tanja Smith

Address of witness: 1 King Street
Concord West NSW 2138

Certified correct for the purposes of the Real Property Act 1900 by the
mortgagee.

SIGNED by Vic Trajceviski
as attorney for St. George – A division of Westpac Banking Corporation
ABN 33 007 457 141 under power of attorney dated 17 January 2001
registered Book 4299 No.332


Signature Tier Three Attorney

By executing this instrument the attorney states that the attorney has
received no notice of the revocation of the power of attorney.

*s117 RP Act requires that you must have known the
signatory for more than 12 months or have sighted identifying
documentation.

ATTACHMENT 10 – RMS LETTER



14 September 2017

Our Reference: SYD15/01496/06
Council Ref: DA 2016/18/A

The General Manager
Willoughby City Council
PO Box 57
CHATSWOOD NSW 2057

Attention: Pooja Chugh

Dear Sir/Madam

**SECTION 96 MODIFICATION – MIXED USE DEVELOPMENT
654-666 PACIFIC HIGHWAY, CHATSWOOD**

Reference is made to Council's email dated 25 August 2017, regarding the abovementioned Section 96 Application which was referred to Roads and Maritime Services (Roads and Maritime) for comment in accordance with the *State Environmental Planning Policy (Infrastructure) 2007*

Roads and Maritime has reviewed the submitted Section 96 application and notes the proposed amendments seek internal layout alterations, reducing unit mix from 75 to 72 and the inclusion of an additional basement car park level. It is further noted that the site will be serviced via Freeman Road. In this regard, Roads and Maritime raises no objection to the proposed modifications and the conditions of the Roads and Maritime previous letter dated 4 November 2016 remain applicable.

Should you have any further inquiries in relation to this matter, please do not hesitate to contact Hans Pilly Mootanah on telephone 8849 2076 or by email at development.sydney@rms.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Pahee'.

Pahee Rathan
Senior Land Use Planner
Network Sydney North Precinct

Roads and Maritime Services

27-31 Argyle Street, Parramatta NSW 2150 |
PO BOX 973 Parramatta NSW 2150 |

www.rms.nsw.gov.au | 13 22 13

ATTACHMENT 11 - ARCHITECTURAL PLANS

Sections & Elevations of the application including supporting documents can be viewed online via Council's Website - Application Tracking using the modification application number

DA-2016/18/A or the property address – 654 - 666 Pacific Highway, 1 Freeman Road, 2A Oliver Road, CHATSWOOD:

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

ATTACHMENT 12 – DEVELOPMENT CONSENT DA-2016/18

PLANNING & INFRASTRUCTURE Planning Unit

20 December 2016

Notice of Determination of a Development Application

Issued under the Environmental Planning and Assessment Act 1979 Section 81(1)(a)

Development Consent DA-2016/18 (SNPP)

Description of Land: 654 Pacific Highway, 666 Pacific Highway, 1 Freeman Road and 2A Oliver Road, CHATSWOOD NSW 2067
LOT 1 DP 121830, LOT 1 DP 1068007, LOT 1 DP 839309, LOT 2 DP 839309

Willoughby City Council, pursuant to Section 80(1)(a) of the Act, hereby **CONSENTS in accordance with the decision of the Sydney (North) Planning Panel** to the abovementioned land being used for the following purposes, **subject to compliance** with the Conditions set out in the attached Schedule.

Demolition of structures, tree removal and construction of 75 shop top apartments, basement car parking, commercial floor space and associated works.

Consent to operate from: 20 Dec 2016

Consent to lapse on: 21 Dec 2021

It should be clearly understood that this Consent in no way relieves the owner or applicant from the obligation to obtain any other approval which may be required under the Local Government Act or any other Act. In particular this Consent is not an approval to carry out any building works whatsoever, such requiring the prior issue of a Construction Certificate which can be obtained from Council.

Debra Just

GENERAL MANAGER

per:

NOTES:

- (1) To ascertain the date upon which the consent becomes effective refer to Section 83 of the Act.
- (2) To ascertain the extent to which the consent is liable to lapse refer to Section 95 of the Act.
- (3) Section 82A of the Act confers on an applicant the right to request a review of the Council's determination or conditions attached to the consent within a period of six months (6) from the date of determination.
- (4) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within six months (6) after receipt of this notice.
- (5) Section 125 of the Act confers the authority to direct any person to comply with the terms and conditions of any Consent and any person failing to comply with such a direction shall be guilty of an offence under the Act.
- (6) Section 127A of the Act confers the authority to issue Penalty Notices for certain offences. The penalty for development not carried out in accordance with consent: - Class 1 & 10 buildings is \$1500 for an Individual & \$3000 for a Corporation - Other building class is \$3000 for an Individual & \$6000 for a Corporation

SCHEDULE 1

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

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

3. 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 Plans	DA2.00	B	26.04.16	Marchese Partners
	DA2.01			
	DA2.02			
	DA2.03			
	DA2.04			
	DA2.05			
	DA2.06			
	DA2.07			
	DA2.08			
	DA2.09			
	DA2.10			
	DA2.11			
	DA2.12			
	DA2.13			
	DA2.14			
	DA2.15			
	DA3.01	A	27.11.15	
	DA3.02	A	27.11.15	
	DA3.03	A	27.11.15	
	DA3.04	B	26.04.16	
	DA3.05	A	27.11.15	
	DA3.06	A	27.11.15	
	DA4.01	A	26.04.16	
	DA4.02			
Landscaped plan (project number 15686)	LP01	B	06.05.16	Matthew Higginson Landscape Architecture P/L
	LP02			
	LP03			
	LP04			
	LP05			
Stormwater Plans	C2970-01	5	11.11.16	Kozarovski & Partners
	C2970-02			
	C2970-03			

	C2970-04 C2970-05 C2970-06			
--	----------------------------------	--	--	--

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.

4. 4m Road Widening – Roads and Maritime Services (“RMS”)

Prior to the lodgement of an application for a Construction Certificate, a 4m Wide Land along the Pacific Highway frontage of the site together with any splay corners must be identified on a survey plan for future road widening by the RMS. The applicant is to dedicate the land to the RMS at no cost to the RMS.

The RMS requires any buildings and structures, together with any improvements integral to the future use of the site are to be erected clear of the land required for road (unlimited in height or depth), along the Pacific Highway boundary. In this regard, a plan identifying the building and structures demonstrating clearance from the land required for road widening must be submitted to Council and to the RMS.

Written approval / confirmation from the RMS must be obtained demonstrating compliance with this condition to the satisfaction of the RMS.
(Reasons: Ensure Compliance - Road Widening by RMS)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

5. Section 94A Contributions

Prior to the issue of the Construction Certificate, a monetary contribution of \$921,447.57 (subject to indexing as outlined below) is to be paid in accordance with Section 94A of the Environmental Planning and Assessment Act, 1979.

This contribution is based on 3% of the estimated development cost of \$30,714,919 at 28 January 2016 and the adopted Section 94A Contributions Plan.

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Building Price Index (Enterprise Bargaining Agreement) [BPI(EBA)] between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the cash contribution

is set out below.

$$NL = \$Lo + \$Lo \times \frac{[\text{current index} - \text{base index}]}{\text{base index}}$$

Where:

NL is the new section 94A levy

Lo is the original levy

Current index [BPI(EBA)] is the Building Price Index (Enterprise Bargaining Agreement) as published by the NSW Public Works available at the time of review of the contribution rate

Base index [BPI(EBA)] is the Building Price Index (Enterprise Bargaining Agreement) as published by the NSW Public Works at the date of the proposed cost of development as above

In the event that the current BPI(EBA) is less than the previous BPI(EBA), the current BPI(EBA) shall be taken as not less than the previous BPI(EBA).

Prior to payment Council can provide the value of the indexed levy.

Copies of the S94A Contributions Plan are available for inspection online at www.willoughby.nsw.gov.au
(Reason: Statutory requirement)

6. Damage Deposit

The applicant shall lodge a Damage Deposit of \$140,000 (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 \$264 (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)

7. Revised development plans incorporating the following amendments/details:

- i) Any awning fronting the Pacific Highway and Oliver Road are to be setback a minimum of 1.5 metres from the future kerb (post road widening).
- j) The width of any awning along the Freeman Road frontage of the site shall be setback at least 600 mm from the future kerb line (post road widening).
- k) Four (4) Motorcycle bays are to be provided. Design and access to these bays must comply with the requirements of Part C.4 of the WDCP and AS2890.1.
- l) Ten (10) adaptable car spaces are required to be provided. Design and access to these bays must comply with the requirements of Part C.6 of the WDCP and AS2890.6. This can be achieved by the extension of the area of Basement 3 subject to the basement area remain within the footprint of the building above.
- m) Service access must be provided from the lower commercial space at the corner of Freeman Road and Pacific Highway (RL99.60) to the car parking,

loading and garage room on the Lower Ground Floor. This can be achieved by changes to the internal layout of the services area on the Lower Ground Floor.

Plans and details incorporating the above requirements must be shown Construction Certificate plans and approved by the certifying authority.

(Reasons: Access, services and loading, car parking, WDCP requirements)

8. Traffic /Manoeuvring Matters

Prior to the issue of any construction certificate, the following must be prepared by qualified engineers and submitted with the construction certificate application for approval by the certifying authority:

- a) Submit longitudinal sections along each side/edge of both of the proposed vehicular access driveway paths including the crossings drawn at 1:20 Scale. Access driveways shall be designed for the B99 vehicle and service/delivery vehicles as relevant. The existing surface levels of the footway including the footpath shall be included in the sections. The rate of change of grade for the MRV especially at the bottom end of the ramp shall also comply with the requirements in AS 2890.2. The longitudinal sections shall include the following: -
 - I. Horizontal distance from the centreline of the road to a minimum of 6 metres inside the property, including provision of Council's standard layback as per Council's standard drawing SD105 which is available from Council's website. Council's standard layback is 500mm deep and the back of layback is 100mm above the gutter invert.
 - II. Both existing and proposed levels (in AHD) and gradients represented in percentage of the vehicular crossing and driveway.

The design shall be prepared by a suitably qualified and experienced civil engineer. The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. All driveway grades and transitions shall comply with the requirements and templates in AS 2890.1 and 2890.2 and Council's specifications.

- b) Submit an Autoturn simulation at a scale of 1:100 including clearances for MR vehicles showing the ingress and egress from Freeman Rd to the loading dock. The Autoturn must demonstrate that there are sufficient turning areas and required clearances for MR vehicles to ingress and egress from Freeman Rd to the loading dock.
- c) Submit revised architectural plans to demonstrate that the overhead clearance at the vehicular entry from Freeman Road and above the MRV manoeuvring area is a minimum of 4.5 metres to the underside of overhead structures and services and complies with AS 2890.2.
- d) Submit revised plans with dimensioned width of the vehicular crossing to demonstrate that the vehicular crossing width for an MRV leading to the loading area complies with AS 2890.2.
- e) Submit revised plans to demonstrate that an overhead clearance height (to the underside of structures/services) of 2.5m minimum is available over the access path from the public road to the disabled car spaces.

- f) Submit revised plans to demonstrate that swept paths including clearances of the simultaneous movements of the B99 and B85 vehicles at ramps and ramp ends are available and clear of any adjacent obstructions. The clearance lines required in AS 2890.1 shall also be observed.
- g) Dimension ramp widths, radius and typical car space widths.
- h) Show dimensions of bicycle and motorbike parking spaces and demonstrate that the adjacent ramp grades providing access to these spaces is suitable.
- i) Submit traffic signal plans prepared by a qualified and experienced traffic consultant relating to any adjustments to traffic signals associated with the road widening of Oliver Road. The plans shall be of sufficient detail to enable lodgement with RMS and Council's Traffic Committee for approval as the road authority.

(Reason: Engineering design for safe access and traffic changes)

9. Road Widening – Concept engineering plans

Submit concept engineering plans including layout and longitudinal and cross sections showing relevant existing and design levels information prepared by a qualified and experienced civil engineer relating to the road widening in Oliver Road and Freeman Road. The plans shall include necessary relocation / adjustments to utility services. Documentary evidence of approval from the affected utility authorities' and their requirements shall be submitted with plans.

(Reason: Civil works & road design)

10. Dedication of Land – Road Widening

The applicant is required to dedicate, at no cost to Council:

- a) A strip of land 4.0 metres wide along the full frontage of the property to Oliver Street.
- b) A strip of land 1.0 metres wide along the full frontage of the property to Freeman Avenue.
- c) Splay corners are to be provided at the intersection of Pacific Highway and Freeman Road and at the intersection of Pacific Highway and Oliver Street, for the purpose of road widening to the satisfaction of the relevant road authorities.

(Reasons: Required road widening)

11. Temporary Ground Anchors

Obtain written permission from all private property owners affected by any encroachment either below ground or the air space above as a result of the above works prior to issue of the Construction Certificate. Copies of the permission shall be sent to Council. All works associated with the drilling and stressing of the ground anchors shall be installed in accordance with approved drawings.

(Reason: Encroachment of works)

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

Stormwater runoff from the site shall be collected and conveyed to the underground drainage system in Freeman Road via a 375 mm diameter RCP in accordance with Council's specifications. A grated drainage pit (min. 900mm x 900mm) shall be provided within the property and adjacent to the boundary prior to discharging to the proposed drainage system in Freeman Road and Council's drainage system. .All

drainage works shall comply with the requirements described in Part C.5 of Council's DCP and Technical Standards. In this regard, full design and construction details showing the method of disposal of surface and roof water from the site shall be shown on the Construction Certificate plans.
(Reason: Stormwater control)

13. Detailed Stormwater Management Plan (SWMP)

Submit for approval by the Principal Certifying Authority, 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. The roof drainage system and drainage system from the development conveying runoff to the OSD facility shall be designed to cater for the 100 year ARI storm events. A spillway from the OSD tank shall discharge into a 900mm x 900mm drainage pit located within the property. All drawings shall comply with Part C.5 of Council's Development Control Plan and Technical Standards, AS3500.3 – *Plumbing and Drainage Code* and BCA.
(Reason: Ensure Compliance)

14. Basement Pumpout Drainage System

The applicant shall submit, for approval by the Principal Certifying Authority, detailed stormwater management plans in relation to the pump-out drainage system. The construction drawings and specifications, shall be generally in accordance with the approved stormwater management plans with the following requirements:

- The pumpout drainage system shall comprise with two (2) submersible type pumps. The two pumps shall be designed to work on an alternative basis to ensure both pumps receive equal use and neither remains continuously idle.
- Each pump shall have a minimum capacity of 10L/s or shall be based on the flow rate generated from the 1 in 100 year ARI 5-minutes duration storm event of the area draining into the system, whichever is greater.
- An alarm warning device (including signage and flashing strobe light) shall be provided for the pump-out system to advise the occupant of pump failure. The location of the signage and flashing strobe light shall be shown on the stormwater management plans.
- The volume of the pump-out tank shall be designed to comply with AS 3500 and Council's policies with a minimum storage capacity equivalent to the runoff volume generated from the area draining into the tank for the 1 in 100 year ARI 2-hours duration storm event.

All drawings shall be prepared by a suitably qualified and experienced civil engineer and shall comply with Part C.5 of Council's Development Control Plan, AS3500.3 – *Plumbing and Drainage Code* and the BCA.
(Reason: Prevent nuisance flooding)

15. Construction Management Plan (CMP)

Submit, for approval by the Principal Certifying Authority, detailed Construction Management Plan (CMP). The CMP shall address:

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

(Reason: Compliance)

16. Traffic Management Plan

A detailed Traffic Management Plan shall be prepared for pedestrian and traffic management and be submitted to the relevant road authority for approval. The plan shall: -

- a) Be prepared by a RTA accredited consultant.
- b) Implement a public information campaign to inform any road changes well in advance of each change. The campaign shall be approved by the Traffic Committee.
- c) Nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police.
- d) Temporary road closures shall be confined to weekends and off-peak hour times and are subject to the approval of Council. Prior to implementation of any road closure during construction, Council shall be advised of these changes and a Traffic Control Plan shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

(Reason: Public safety and amenity)

17. Vehicle Access – Engineer's Certification

The Applicant shall submit, for approval by the Principal Certifying Authority, certification from a suitably qualified and experienced traffic engineer. This certification must be based on the architectural drawings and the structural drawings, and must make specific reference to the following:

- a) That finished driveway gradients and transitions fully comply with AS 2890.1 and 2890.2 and will not result in the scraping of the underside of cars/vehicles.
- b) That the proposed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
- c) All parking spaces for people with disabilities shall comply with Section 2.4 of AS2890.6.

(Reason: Ensure Compliance)

18. Design of Works in Public Road (Roads Act Approval)

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

- a) Construction of full width concrete shared footpath (max. 2.5% crossfall) with line marking for the full frontage of the development site to Pacific Highway in accordance with Council's specifications and Standard Drawings. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to the applicant. Detailed long section and cross sections at 5 metre intervals shall be provided.
- b) Construction of 1.5 metres wide footpath (max. 2.5% crossfall) and perambulator ramp for the full frontage of the development site in Freeman Avenue and Oliver Street in accordance with Council's specification and Standard Drawings SD105 and SD100. All adjustments to public utility services and associated construction works in the nature strip are to be at the full cost to

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

- c) Reconstruction of existing kerb and gutter for the full frontage of the development site in Freeman Road and Oliver Road including transitions, incorporating the required road widening as documented in the Voluntary Planning Agreement registered on the title of land in accordance with Council's specifications and Standard Drawing SD105. Detailed longitudinal and cross sections at 5 metre intervals shall be provided.
- d) Reconstruction of minimum half width road pavement and construction of sufficient width of road pavement to effect the road widening for the full frontage of the development site in Oliver Road and Freeman Road relating to the road widening as documented in the Voluntary Planning Agreement registered on the title of land in accordance with Council's specifications (AUS-SPEC). The applicant shall contact Council for standard design traffic for these pavements. Detailed longitudinal and cross sections at 5 metre intervals shall be provided. The plans shall include details for the relocation and adjustments to public utilities required with the road widening. Documentary evidence of the affected utility authorities' approval and conditions for the proposed relocation shall be submitted with the plans.
- e) Construction of vehicular crossings in Freeman Road in accordance with Council's specification and Standard Drawings SD105.
- f) Construction of Perambulator Ramps at all corners of the development site to Willoughby Councils Specification. Pram Ramps shall be designed in accordance with Council's standard drawing SD100.
- g) Construction of the proposed 375 mm diameter RC stormwater pipe system in Freeman Road with longitudinal section and details suitable for construction to Willoughby City Councils Specification.

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

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

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

(Reason: Ensure compliance)

19. Stormwater Drainage System in Freeman Road

Prior to the issue of any construction certificate, the Applicant shall submit for approval by Council as a road authority full engineering plans and details with specifications details suitable for construction for the stormwater drainage system proposed in Freeman Avenue. The plans shall be prepared by a qualified and experienced civil engineer. Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.

(Reason: Ensure compliance)

20. Vehicle Access - Construction & Certification

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

- a) That the as-constructed carpark complies with the approved Construction Certificate plans.
 - b) That finished access driveway gradients and transitions comply with AS 2890.1 and 2890.2 and will not result in the scraping of the underside of vehicles.
 - c) That the as-constructed vehicular path and parking arrangements comply in full with AS2890.1 – 2004 in terms of minimum dimensions provided,
 - d) All parking spaces including overhead clearances over the car spaces and vehicular paths for people with disabilities comply with Section 2.4 of AS2890.6.
- (Reason: Ensure Compliance)

21. Services - Energy Australia

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

(Reason: Compliance)

22. Material – Reflectivity

The external colour and finishes of the development shall be painted or treated to minimise the effects of glare to neighbouring properties. Details demonstrating compliance with this condition must be submitted with the construction certificate application for approval by the certifying authority.

(Reason: Amenity)

23. Redundant Vehicular Crossings – Pacific Highway

The redundant vehicular crossing on Pacific Highway shall be removed and replaced with kerb and gutter to match existing prior to the issue of any occupation certificate.

The design and construction of the kerb and gutter on Pacific Highway shall be in accordance with Roads and Maritime requirements. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 8849 2138).

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

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

(Reasons: RMS requirement)

24. RMS Excavation and Site support

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

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

The report and any enquiries should be forwarded to:

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

Telephone 8849 2114
Fax 8849 2766

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

25. RMS – Stormwater

Prior to the issue of a Construction Certificate, detailed design plans and hydraulic calculations of any changes to the Roads and Maritime Services' stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

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

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

26. Adaptable Units

Forty (40) adaptable residential units are to be provided by the development in accordance with the requirements of Part C.6 of the Willoughby Development Control Plan and as nominated on submitted *Development Data sheet prepared by Marchese Partners Issue 161107, supporting plans and letter prepared by marchese Partners dated 23.11.2016*. Each adaptable unit is to be nominated on the Construction Certificate drawings and is to be provided with a car space or a disabled car spaces where required under the Willoughby Development Control Plan Part C.6 – Access, Mobility and Adaptability. (Reason: Access, Mobility and Adaptability)

27. Agreement to Transfer Affordable Housing Dwellings

The applicant must enter into a Deed with the Council providing for the transfer of title of the affordable housing dwellings identified as Unit B1.01, Unit B1.03 and Unit B2.02 (with a total gross floor area of 205m²) to the Council, free of charge. The Deed is to be generally in accordance with the Housing Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the Construction Certificate.

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

The construction certificate plans should demonstrate that the physical requirements specified in the Housing Transfer Deed are satisfied.
(Reason: Ensure compliance)

28. Affordable Housing Fittings and Finishes

Prior to the issue of the Construction Certificate, the applicant is to submit to the Council details of all internal fittings and finishes of the affordable housing dwellings. The applicant is responsible for obtaining written confirmation from Council that it is satisfied that the internal fittings and finishes are at the same standard as other dwellings within the development.
(Reason: Amenity)

29. Affordable Housing Monetary Contribution

The applicant shall make a monetary contribution for the purpose of providing Affordable Housing that is calculated at 4% of the accountable total floor area of the development to Council. In calculating the monetary contribution reference is to be made to the market value of dwellings of a similar size and taken from the most recent median sales price of such dwellings for the Willoughby local government area as documented in the Rent and Sales Report NSW published by Housing NSW or, if another document has been approved for that purpose by the Director – General, that document.

In this case, in addition to the affordable housing dwellings nominated, a monetary contribution for **24.44m²** of floor space is required.

Prior to payment of the contribution evidence shall be submitted to Council's Director of Environmental Services demonstrating how the contribution has been calculated in accordance with the above requirement. The contribution is to be paid **prior to release of the construction certificate**.
(Reason: Ensure compliance)

30. Internal Noise Levels Residential

To minimise the noise intrusion from any external noise source, the building shall be designed and constructed to comply with the following criteria with windows and doors closed:

Internal Space	Time Period	Criteria
		L_{Aeq} (period)
Living Areas	Any time	40 dB(A)
Sleeping Areas	Day (7am – 10pm)	40 dB(A)
	Night (10pm – 7am)	35 dB(A)

Note:

1. The above criteria does not apply to kitchens, bathrooms, laundries, foyers, hallways, balconies or outdoor areas.
2. The above criteria define the minimum acceptable levels. Buildings may be built to a better than average standard by applying more stringent criteria.

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

(Reason: Amenity, environmental compliance and health)

31. Noise from Transport Corridor

To minimise the impact of noise from any external noise source on the amenity of the occupants, the building shall be constructed in accordance with the recommendations and specifications of the acoustic report TH737-01F02 by Renzo Tonin & Associates dated 23/11/2015.

Details of the proposed acoustic treatment shall be submitted to the Certifying Authority.

(Reason: Amenity)

32. Building Ventilation

To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided. These shall be designed in accordance with the provisions of:

- a) The National Construction Code:
 - i) AS1668.1, AS1668.2 and AS3666.1 as applicable; and/or
 - ii) Alternative solution using an appropriate assessment method

Details of all mechanical ventilation and exhaust systems, and certification provided by an appropriately qualified person verifying compliance with these requirements, shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

(Reason: Health and compliance)

33. 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 and a copy to Council for its records for review and concurrence.
(Reason: Environment and health protection)

34. Contaminated Land – Remedial Action Plan

A Stage 3 – Remedial Action Plan (RAP) 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 RAP shall incorporate any findings in any Preliminary or Detailed Site Investigations for the site, it shall clearly state proposed cleanup objectives, and demonstrate how the site can be made suitable for the proposed use.

The RAP 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 prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP.

(Reason: Environmental protection, public health and safety)

35. Hazardous Building Material Assessment

A hazardous building material assessment shall be undertaken by an appropriate qualified person and is to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate. The assessment shall identify any likely hazardous materials within any structure to be demolished and provide procedures on how to handle and dispose of such materials.

(Reason: Environmental protection/public health and safety)

36. Internal Noise Levels Commercial

To minimise noise intrusion from any external noise source on the commercial component of the development, the building shall be designed and constructed to comply with the requirements of Australian Standard AS2107-2000 – Acoustics – Recommended design sound levels and reverberation times for building interiors.

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

(Reason: Amenity, environmental compliance and health)

37. Noise Mechanical Services

To minimise the impact of noise onto residential receivers, all mechanical services shall be designed and installed to ensure ambient noise levels are maintained. Details of the proposed equipment, siting and any attenuation required shall accompany the application for Construction Certificate.

(Reason: Amenity, environmental compliance and health)

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.

38. 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)

39. Building Site Hoarding

Prior to the commencement of work, a hoarding, complying with StateCover NSW requirements which is to be erected to restrict public access to the site (including demolition and/or excavation site), building works, materials or equipment. A separate application is to be made to Council's Infrastructure Services Division for this purpose should the hoarding be located on Council property.

(Reason: Safety)

40. 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)

41. Project arborist

- i) A project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works.
- ii) The Project Arborist is to oversee all tree protection measures as outlined in the Arboricultural Impact Assessment dated 18 November 2015 prepared by Redgum Horticultural

42. Garbage Compactor Vehicles

To ensure garbage compactor vehicles can service the premises entrances, exits, driveways, vehicle ramps, loading dock way and garages, shall be designed with the sufficient clearance height, manoeuvring space and suitable gradient. Clearance must take account of roller shutters, service ducts, pipe work etc. A statement prepared by a suitably qualified and experience traffic engineer together with section drawings and swept path detailing compliance with this condition must be submitted to the certifying authority prior to the issue of the relevant construction certificate.

(Reason: Ensure compliance)

43. Garbage Rooms

Garbage rooms must be large enough to store the generated waste from the approved development and allowance should be made for separation of putrescible waste from waste suitable for recycling. The garbage room is not to be smaller than 5000mm x 4000mm, have a 2400mm ceiling height, with a door entry width not less than 2200mm.

(Reason: Ensure compliance)

44. Dilapidation Report of Council's Property

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

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

This dilapidation report shall be submitted to Council and the Principal Certifying Authority.

(Reason: Protection of Council's infrastructure)

45. Permits and Approvals Required

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

- a) Permit to erect Builder's hoarding where buildings are to be erected or demolished within 3.50m of the street alignment. Applications are to include current fees and are to be received at least 21 days before commencement of the construction.
- b) Permit to stand mobile cranes and/or other major plant on public roads. Applications are to include current fees and security deposits and are to be

received at least seven days before the proposed use. It should be noted that the issue of such permits may also involve approval from the NSW Police Force and the RTA. A separate written application to work outside normal hours must be submitted for approval.

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

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

(Reason: Legal requirements)

46. Application for Vehicle crossings

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

(Reason: Protection of public asset)

47. Spoil Route Plan

Submit a "to and from" spoil removal route plan to Council prior to the commencement of excavation on the site. Such a route plan should show entry and exit locations of all truck movements.

(Reason: Public amenity)

48. Adjustment to Street Lighting

Prior to commencement of work, consult with utility authorities to determine the requirements of relocation/adjustment of electricity supply and street lighting services fronting the property. Such street lighting shall also conform to Council's standard specifications.

(Reason: Public amenity)

49. Contamination/Remediation – Site Validation Report

Prior to the issue of any Construction Certificate for any above ground structures, 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)

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

50. Temporary Ground Anchors – Supervision

A professional Geotechnical Engineer shall be on site to supervise the piling, excavation and finally the installation and stressing of the ground anchors. On completion of these works, a report from the Geotechnical Engineer shall be submitted to Council for record purposes.

A Chartered Professional Engineer shall monitor adjoining public infrastructures to detect any ground heaving or settlement during and after the installation of the piling and ground anchors. A rectification report shall be submitted to Council should unacceptable displacements occur within the zone of influence.

(Reason: Protection of public assets)

51. 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)

52. 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)

53. Loading and Unloading During Construction

The following requirements apply:

- All loading and unloading associated with construction must be accommodated on site.
- The structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development.
- If, during excavation, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- In addition to any approved Works Zone, provision must be made for loading and unloading to be accommodated on site once the development

has reached ground level.

- If a Works Zone is warranted an application must be made to Council prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such facility at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- Application for a Works Zone must be submitted to Council a minimum 8 weeks prior to being required. Works application form is available on the City's Website.

(Reason: Public safety and amenity)

54. 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)

55. 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)

56. 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)

57. 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)

58. Demolition Work AS 2601-2001

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

(Reason: Safety)

59. 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)

60. 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)

61. 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)

62. 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)

63. 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)

64. 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)

65. Tree Protection

- i) Retain and protect the following trees and vegetation throughout the demolition and construction period: All trees indicated for retention in the Arboricultural Impact Assessment dated 18 November 2015 prepared by Redgum Horticultural
- 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 a qualified arborist on site. All structures are to bridge roots unless directed by a qualified arborist on site.
- iv) Tree protection measures must comply with the recommendations within the Arboricultural Impact Assessment dated 18 November 2015 prepared by Redgum Horticultural and AS 4970-2009 Protection of trees on development sites.

(Reason: Tree management)

66. Public Tree Protection

Unless identified by the development consent, no tree roots over 50mm diameter are to be damaged or cut and all structures are to be bridged over such roots.

Should any problems arise with regard to the existing or proposed trees on public land during the construction or bond period, the applicant is to immediately Contact Council's Open Space section and resolve the matter to Council's satisfaction.

(Reason: Tree management)

67. 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)

68. 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)

69. 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)

70. Unexpected Finds Protocol

An unexpected finds contingency plan should be incorporated into site redevelopment works. In the event that previously unidentified contaminated soils or materials are identified during site redevelopment, works should cease in the immediate vicinity

and the affected area isolated to minimise disturbance. A suitably qualified contaminated site consultant should be engaged to assess the degree, type and extent of contamination and establish a suitable remediation plan. The Site Manager/landowner shall notify Council in writing when they become aware of any contamination.

(Reason: Environment & Health Protection)

71. Importation of Fill

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

(Reason: Environment & Health Protection)

72. 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)

73. 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.

74. Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained prior to the issue of a Final Occupation Certificate. Application must be

made through an authorised Water Servicing Coordinator, for details see Customer Service, Urban Development at www.sydneywater.com.au or telephone 13 20 92.

The Section 73 Certificate must be submitted to the Certifying Authority.
(Reason: Ensure statutory compliance)

75. Street Number Display

The street number at least 100mm high shall be clearly displayed prior to the issue of any Occupation Certificate.
(Reason: Information)

76. Gates Adjoining Public Footways

Prior to the issue of any Occupation Certificate, any gate openings shall be constructed so that the gates, when hung will be fitted in such a manner that they will not open over the footway or public place.
(Reason: Ensure compliance)

77. Commercial – Shop Number Display

Prior to the issue of any Occupation Certificate, the shop number (with lettering at least 50mm in height) for each commercial tenancy being clearly displayed adjacent to the head of the entry door to the shop.
(Reason: Information)

78. BASIX Certificate

Prior to the issue of the relevant Occupation Certificate, a completion certificate is to be submitted to the Certifying Authority demonstrating the manner in which the measures committed to in the latest BASIX Certificate have been satisfied.
(Reason: Environmental sustainability)

79. 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)

80. 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)

81. Marked Parking Bays

Prior to the issue of any Occupation Certificate, all parking bays and/or truck docks and the direction of traffic movement shall be permanently marked on the pavement surface in accordance with the approved parking and driveway layout to the satisfaction of the Certifying Authority. Where it is proposed that a building or site be used for multiple occupation, all parking bays being identified by corresponding consecutive numbers for residential units, visitors car spaces and commercial tenancies.

(Reason: Ensure compliance)

82. Registration of Plan of Consolidation

Prior to the issue of any Occupation Certificate, all individual allotments (with the exception of land/s required for road widening) involved in the development site shall be consolidated into a single allotment and evidence of the registration of the plan of consolidation to be submitted to Council.

All land required for road widening required by Council and by the RMS are to be as separate lots on the subdivision plan.

(Reason: Ensure compliance)

83. Safer by Design

Prior to the issue of any Occupation Certificate and to minimise the opportunity for crime and in accordance with CPTED principles, the development shall incorporate the following:

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

This lighting shall ensure consistency to avoid contrasts between areas of shadow/illumination and preferably be solar powered and with an automatic/timed switching mechanism, motion sensor or equivalent for energy efficiency. Such lighting shall be installed and directed in such a manner so as to ensure that no nuisance is created for surrounding properties or to drivers on surrounding streets. Car parking lighting system is to be controlled by sensors to save energy during periods of no occupant usage.
- ii. The ceiling and vertical structures of the basement parking area shall be painted white (or equivalent) in order to ensure good visibility, surveillance and less reliance on artificial lighting lux levels.
- iii. The design, installation and maintenance of landscaping (and associated works) within pedestrian routes around the site (and adjacent to mailboxes) shall not impede visibility and clear sight lines along the pedestrian footway from one end to the other.
- iv. The means to isolate the residential and commercial components of the building shall be incorporated into the development, including the security keying of lifts and doors and other measures for access control.
- v. Walls/screens between balconies shall be designed to avoid foot holes or natural ladders so as to prevent access between balconies/terraces within the development.
- vi. Adequate signage within the development to identify facilities, entry/exit points

and direct movement within the development.

- vii. A small portion of each storage area shall be of solid construction (i.e. Cupboard.

(Reason: Safety and surveillance, energy efficiency, amenity)

84. Services - Electricity Supply and Telecommunication Mains

Prior to the issue of any Occupation Certificate, all existing and proposed electricity supplies and telecommunication mains and services around the perimeter of the site shall be relocated underground to the satisfaction of the relevant utility provider and Willoughby City Council at the full cost of the applicant.

(Reason: Compliance)

85. Services - Mailboxes

Prior to the issue of any Occupation Certificate, all mail boxes provided on site shall comply with the requirements of 'Australia Post' in terms of size, location, numbering and clearing. Details of the requirements can be obtained from Australia Post or from their web site. Letter boxes for adaptable dwellings shall comply with AS 4299 CI 3.8.

(Reason: Legal)

86. Clothes to be Dried in the Open Air

Prior to the issue of any Occupation Certificate, where provision is made to enable clothes to be dried in the open air, this clothes drying area shall be screened by a fence or landscaping on the sides visible from the streets/public domain.

(Reason: Amenity)

87. Facilities

Prior to the issue of any Occupation Certificate, the following shall apply to the development:

- i. Electricity and telephone lines must be placed underground from the street to the building.
- ii. One storage area shall be allocated to each residential unit.
- iii. A master TV antenna or satellite dish is to be provided for the building. This shall suitably screened from view from the street.
- iv. All plumbing pipes and installations must be concealed in ducts and not exposed on the external walls of the building and must be adequately soundproofed.
- v. Secure bicycle parking facilities shall be provided in accordance with Willoughby Development Control Plan Part C. 4 and designed in accordance with AS2890.3.

(Reason: Ensure compliance, streetscape and amenity)

88. Screening of Rooftop Plant/Structures

Prior to the issue of any Occupation Certificate, any rooftop or exposed structures including lift motor rooms, plant rooms etc., together with air conditioning, ventilation and exhaust systems, shall be suitably screened and integrated with the building in order to ensure a properly integrated overall appearance.

(Reason: Visual amenity)

89. Affordable Housing – Fittings and Finishes

Prior to the issue of any Occupation Certificate, the Certifying Authority must be satisfied that the affordable housing dwellings have the internal fittings and finishes at the same standard as the other dwellings within the development and in accordance with the schedule endorsed by Council.

Any costs associated with bringing the affordable housing dwellings to the standards required are to be borne by the applicant.

(Reason: Amenity)

90. Car spaces allocation

The approved car spaces must be allocated as follows:

- d) A total of 75 car spaces to be allocated to the residential component of the approved development. One car space is to be allocated for each residential unit/shop top housing unit.
- e) A total of 20 car spaces to be allocated to the commercial tenancies at a minimum one commercial car space be allocated per 110m² of commercial floor space (part thereof rounded down).
- f) A total of 18 car spaces must be allocated as residential visitor car spaces.

The allocation of car spaces in accordance with this development consent must be reflected in any subsequent subdivision of the approved development and associated building management plan or strata management plan. The car parking spaces must not be separate allotments, but part allotments in any strata subdivision of the approved development. All residential visitor car spaces must be held in common properties under any strata subdivision of the approved development.

(Reason: Car parking management)

91. Landscaping/ Fencing

Any landscaping and/or fencing at the site must not restrict sight distance to pedestrians and cyclist travelling along the footpath of Pacific Highway.

(Reasons: Safety/Sight Distance)

92. Public Tree Maintenance

Prior to the issue of any Occupation Certificate, the applicants arborist or landscape designer is to certify that:

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

(Reason: Tree management, public asset management)

93. Tree Planting

Trees are to be planted in accordance with the following table:

No. Required	Species	Location	Min Pot Size
All trees	As indicated on the approved Landscape Plans	As indicated on the Landscape Plan	75 litre
5	<i>Livistona australis</i>	Oliver Road landscape setback	75 litre

(Reason: Landscape Amenity)

94. 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)

95. Public Tree Planting

Plant the following trees on nature strip forward of the property:

- a) 2 x *Eucalyptus microcorys* on the Pacific Highway frontage road reserve

The trees shall:

- Have a minimum container size of 75 litres and grown to NATSPEC 2 "Guide Specifying Trees", (2003).
 - Be planted in prepared soil area measuring a minimum of 3m x 1.5m and underplanted with *Dianella* sp. at 400mm centres.
 - Be planted as indicated on the approved Landscape Plan and generally in alignment with other street trees.
- b) 2 x *Lagerstroemia indica* x *L. fauriei* 'Sioux' on the Freeman Road frontage road reserve

The trees shall:

- Have a minimum container size of 75 litres and grown to NATSPEC 2 "Guide Specifying Trees", (2003).
 - Be planted clear of driveway sightlines and generally in alignment with other street trees.
- c) Any replacement trees as required by Council for trees removed consequential to the required road widening for the development.

(Reason: Landscape amenity, tree canopy recruitment)

96. Sound Level Output Certification

The sound level output from the equipment installed for the operation of the building shall not exceed 5dBA above the ambient background noise level measured at the boundaries of the property in accordance with the current Environment Protection Authority (EPA) guidelines for noise assessment. Certification of the level of sound output is to be provided by an appropriately qualified acoustical Consultant to the Certifying Authority prior to issue of the Final Occupation Certificate.

(Reason: Amenity)

97. Acoustic Treatment – Certification

Prior to the issue of any Occupation Certificate, certification shall be provided from a suitably qualified acoustic engineer certifying that the acoustic treatment of the building complies with the construction details approved and the relevant design noise criteria.

(Reason: Amenity, environmental compliance and health)

98. Acoustic Works – Report

To ensure all acoustic work has been completed, 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 TH737-01F02 by Renzo Tonin & Associates dated 23/11/2015.

(Reason: Amenity)

99. Noise Emission – Equipment

Prior to the issue of any Occupation Certificate, certification shall be provided from a suitably qualified acoustic engineer certifying that the noise from all sound producing plant, equipment, machinery and/or mechanical ventilation system complies with the relevant noise criteria.

(Reason: Amenity, environmental compliance and health)

100. Certification – Ventilation

Prior to the issue of any Occupation Certificate, certification shall be provided from a suitably qualified mechanical engineer certifying that all work associated with the installation of the mechanical and/or natural ventilation systems has been carried out in accordance with the relevant Australian Standards and or alternative solution.

(Reason: Amenity, environmental compliance and health)

101. Waste & Recycling Room

Prior to the issue of any Occupation Certificate, the waste and recycling container room shall be constructed to comply with all the relevant provisions of Willoughby Development Control Plan and in particular :-

- a) The floor being graded and drained to an approved drainage outlet connected to the sewer and having a smooth, even surface, coved at all intersections with walls.
- b) The walls being cement rendered to a smooth, even surface and coved at all intersections.
- c) Cold water being provided in the room with the outlet located in a position so that it cannot be damaged and a hose fitted with a nozzle being connected to the outlet.
- d) An overhead type door being provided to the room having a clear opening of not less than 1.8m.
- e) A galvanised steel bump rail at least 50 mm clear of the wall being provided at the height of the most prominent part of the garbage containers.
- f) Mobile containers having a capacity no less than that described in the waste management plan submitted to Council with DA2016/18 and suitable for connection to the garbage collection vehicle being provided in the room. In addition suitable recycling containers must also be provided in the room.

(Reason: Health and amenity)

102. Registration of Dedication of Road Widening

Prior to the issue of a Final Occupation Certificate, submit documentary evidence to Council that the Plan of Dedication has been registered with the Land and Property Management Authority.

(Reason: Ensure Compliance)

103. State Survey Marks

Prior to the issue of a Final Occupation Certificate, the Applicant shall reinstate State/Permanent Survey Mark (SSM) on the Street to the specification of the Land and Property Management Authority. A copy of the Location Sketch Plan of PM/SSM including reduced level (AHD) shall be submitted by a registered Surveyor. The degree of horizontal and vertical accuracy shall be acceptable to the Land and Property Management Authority.

(Reason: Public amenity)

104. Temporary Ground Anchors – Destressing

All damages to Council's infrastructures due to the works associated with the piling and installation of the ground anchors shall be restored to the requirements of Willoughby City Council at no cost to Council. All ground anchors shall be de-stressed by the removal of the anchor heads and protruding tendons on completion of the works. A certificate issued by a professional Geotechnical Engineer verifying that all ground anchors have been decommissioned shall be submitted to Council.

(Reason: Destressing of ground anchors)

105. CCTV Report of Council Pipe System After Work

Prior to the issue of any Occupation Certificate, a qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the condition of the Council drainage pipeline after the completion of all works. No person is to enter any Council stormwater conduit without written approval from Council. The camera and its operation shall comply with the following: -

- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner.
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints.
- Distance from the manholes shall be accurately measured and displayed on the video.
- All pipe joints and defects are to be inspected by stopping movement and panning the camera to fully inspect the joint and/or defect.
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council. Any damage that has occurred to the section of the pipeline since the commencement of any works on the site shall be repaired in full to the satisfaction of Council at no cost to Council, which may include full reconstruction. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifying Authority.

(Reason: Ensure compliance and protection of public asset)

106. On-site Water Management System

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

(Reason: Prevent nuisance flooding)

107. Sign for OSD system

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

The wording for the plaque shall state *"This is the OSD 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)

108. Certification of OSD

A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify on Council's standard certification form that the as-built OSD system is in accordance with the approved plans and complies with Council's DCP and Technical Standards. Council's standard certification form is available in the appendix of Council's Technical Standard No.1.

(Reason: Legal requirement)

109. Certification of the Basement Pumpout Drainage System

Upon completion of the pump-out system, the following shall be submitted to the Principal Certifying Authority.

- A suitably qualified and experienced civil engineer (generally CP Eng. Qualification) shall certify that the as-built pumpout system complies with Part C5 of Council's DCP, all relevant codes and standards and the approved stormwater management plans.
- Work-as-executed plans based on the approved pump-out system plans from a registered surveyor to verify that the volume of storage and pump capacity are in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved pump-out system plans.
- Certification from a licensed plumber to ensure that the constructed pump-out system complies with the current plumbing requirements of Sydney Water and Committee on Uniformity of Plumbing and Drainage Regulations of NSW.

(Reason: Ensure Compliance)

110. Works-As-Executed Plans - OSD

Upon completion of the OSD System, the following shall be submitted to the Principal Certifying Authority:

- Work-as-Executed plans based on the approved stormwater management plans from a registered surveyor to verify that the volume of storage, PSD, water and floor levels are constructed in accordance with design requirements. Any minor changes or variations to the approved plans should be highlighted in red on the approved stormwater plans.

- Engineer's certification of the OSD system together with the completed Council's standard form for On-Site Detention Record of Installation.
(Reason: Record of works)

111. 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 OSD 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 OSD system, in relation to the building footprint, must be shown on the final plan of subdivision/strata plan or must be shown on the scale sketch, attached as an annexure to the request 13PC and 13RPA forms. The S88B instrument or 13PC/13RPA forms shall be lodged with Council's Standard S88B/S88E Lodgement Form with all supporting documentations listed in the Form. Council's Standard Form is available from Council upon requested.

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

112. Documentary Evidence of Positive Covenant, Engineers Certificate

The following documentary evidence of the completed drainage works shall be submitted to Principal Certifying Authority and Council: -

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

(Reason: Public record)

113. Splay Corner for Fence

In order to ensure adequate sight distances for pedestrians and traffic in the frontage road, any boundary fence shall be designed and constructed by a 2mx 2.5m splay on both sides of the driveway exit.
(Reason: Pedestrian safety)

114. Construction of Kerb & Gutter and Road Pavement

Construct new kerb and gutter together and road pavement of width as per the plans approved under the Roads Act 1993 in accordance with Council's specification for the full frontage of the development site.
(Reason: Public amenity)

115. Construct / Reconstruct Pavement

Prior to the issue of any Occupation Certificate, a minimum of half the road pavements and sufficient widths of pavement to effect the required road widening

including any necessary associated works adjoining to the full frontages of the development site to Freeman Road and Oliver Road shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC).

(Reason: Ensure compliance)

116. Concrete Footpath

Construct / reconstruct full width shared footpath with line marking for the full frontage of the development site in Pacific Highway and 1.5 metres wide concrete footpath in Oliver Road and Freeman Road for the full frontage of the development. All works shall be carried out in accordance with Council's standard specifications and drawings.

(Reason: Public amenity)

117. Street lighting and Furniture

Provide approved street lighting and furniture in accordance with Willoughby City Council's street furniture manual and Australian Standard AS/NZ 1158.(2005).

(Reason: Public Amenity)

118. Vehicular Crossings

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

The crossings shall be of widths as required in AS 2890.1 and 2890.2 and shall be constructed at right angles to the street kerb in plain concrete. The new crossings shall be located no closer than 1 metre from any power pole and 2 metres from the existing street tree unless otherwise approved by Council. The centreline of the new crossing shall be "in-line" with the centreline of the internal driveways.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. The nature strip and footpath is to be adjusted on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.

(Reason: Public amenity)

119. Removal of Redundant Crossings

Remove all redundant crossings together with any necessary works and reinstate the footpath, nature strip and kerb and gutter accordingly. Such work shall be carried out in accordance with Council's specification.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to issue of any Occupation Certificate.
(Reason: Public amenity)

120. Inspection of Civil Works on Road Reserves

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

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

121. Performance Bond

The Applicant shall lodge with the Council a performance bond of **\$70,000** against defective public civil works undertaken by the main Contractor for a period of twelve (12) months from the date of the completion certificate issued by Council as the road authority under the Roads Act 1993. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee which will be refundable subject to the approval of Council's Engineers at the end of the maintenance period. In this period, the Applicant is liable for any part of the work which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
(Reason: Ensure compliance and specification)

122. General Easement/ROW Provision and Certification

The creation of drainage easements, service easements and/or rights-of carriageway shall be carried out as required. A registered surveyor is to certify prior to the release of the subdivision certificate that all interallotment drainage lines, services or driveways are fully contained within the proposed allotment and/or that future provisions of such are fully covered by the proposed burdens. Alternatively if the surveyor is of the opinion that no easements and/or rights-of-carriageway are required then certification to this effect from the surveyor is to be submitted.
(Reason: Ensure compliance)

123. Location of On-Site Detention System

The locations of the as-built on-site stormwater detention system(s) shall be shown on the final plan of subdivision/strata plan.
(Reason: Ensure compliance)

124. Documentary Evidence of Registered Positive Covenant and Restriction on the Use of Land

Prior to issue of the Subdivision Certificate, the following documentary evidence of the completed on-site detention (OSD) system shall be submitted to Council:-

- Title Deed of the as-built OSD systems. Alternatively, the applicant shall create a Positive Covenant and Restriction on the use of Land with this application.

(Reason: Public record)

125. Section 88B Instrument

A Section 88B Instrument is to be submitted with the Linen Plan for subdivision in respect to any proposed easements, rights-of-way and positive covenants.

(Reason: Ensure compliance)

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.

126. Road Occupancy Permit

A road occupancy license should be obtained from the Transport Management Centre for any works that may impact on traffic flows on Pacific Highway during construction activities.

(Reasons: RMS – Information)

127. No Construction Zone on Pacific Highway

Construction Zone will not be permitted on Pacific Highway.

(Reasons: RMS Requirement)

128. Separate Development Consent - Various

No approval is granted as part of this consent for the use and creation of commercial tenancies, or subdivision of the approved building or any signage.

(Reason: Ensure compliance)

129. 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)

130. Security Controlled Car Parking

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

(Reason: Amenity)

131. Motor Cycle Parking

One motorcycle parking space per 25 car parking spaces or part thereof must be provided for motor cycle parking. These spaces are to have an area of 1.2 metres x 3 metres.

(Reason: Amenity)

132. Cycle Racks

Eighteen (18) Bicycle lockers for the use of residents/visitors to the premises must be provided. Where more than three bicycle lockers are provided for commercial/industrial/ retail/ restaurant uses, showers and change facilities must be provided.

(Reason: Amenity)

133. Visitor Car Parking Bays

Any visitor parking bays required in accordance with Willoughby Development Control Plan Part C.4, are to be grouped together and physically identified by suitable signs and/or pavement and being permanently accessible and reserved for the exclusive use of visitors to the building. The management of the car spaces in accordance with the conditions of this consent must be reflected in any Building Management Plan and strata management plan for the development.

(Reason: Ensure compliance)

134. Visitor and Commercial Car Parking Spaces

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

To maximise the efficiency of commercial car parking spaces outside normal business hours, meaning 9am-5pm weekdays, and 9am – 4pm weekends are to be made available for use by all visitors to the building including residential visitors.

The approved commercial car spaces must be made freely available to all visitors to the commercial premises during trading hours of the commercial tenancies unless otherwise in use by a staff member of the commercial tenancies.

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

135. Loading and Unloading

All loading and unloading of goods is to be conducted wholly within the site and especially in any loading facility, internal dock or goods handling area. These areas are to be maintained free of obstruction for the sole use of delivery vehicles. Under no circumstances are loading/unloading activities to be conducted from vehicles standing kerbside in Freeman Road, Pacific Highway or Oliver Road or from any appurtenant right of way.

(Reason: Access and amenity)

136. Illumination of Building or Car Park

Illumination/lighting on any part of the building or car parking areas is to be designed so as to avoid glare adversely affecting nearby residents or passing motorists.

(Reason: Amenity)

137. 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)

138. 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)

139. 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)

140. 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)

141. Vehicular Access and Garaging

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B85 vehicles. In all respects, the proposed vehicle access and/or parking spaces shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and Council's standard specification.

(Reason: Vehicular access)

142. 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)

143. Adjustment to Electricity

All existing and proposed overhead electricity supply mains and other overhead services around the street frontage of the site are to be relocated underground to the

specification of Energy Australia and Willoughby City Council at full cost to the applicant.
(Reason: Public amenity – C.11 of WDCP)

144. 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)

PRESCRIBED CONDITIONS

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

145. 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)

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

146. 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)

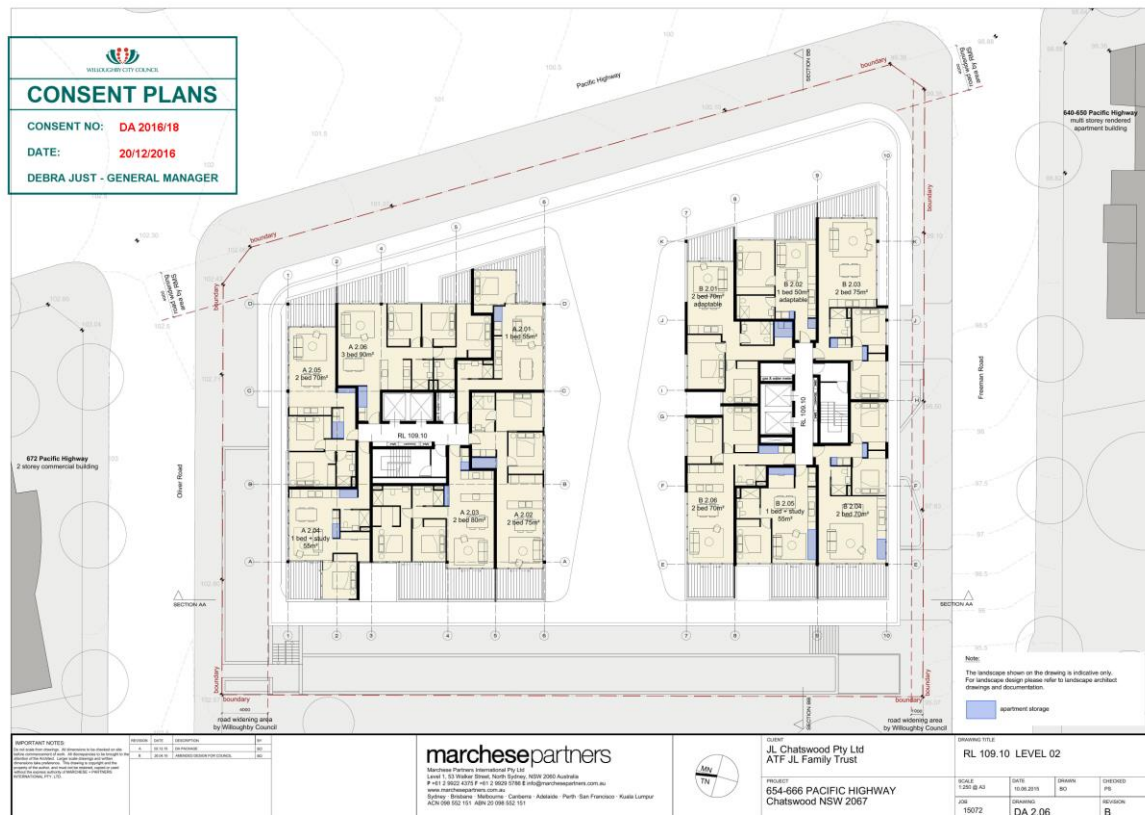
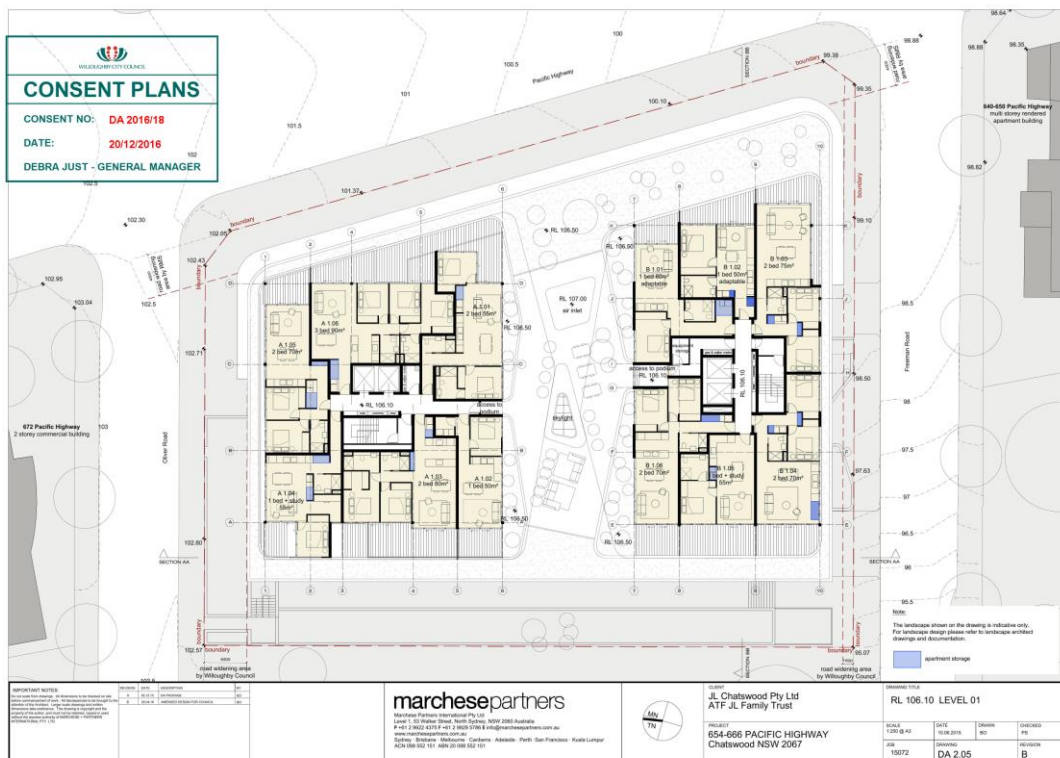
147. Notify Council of Intention to Commence Works

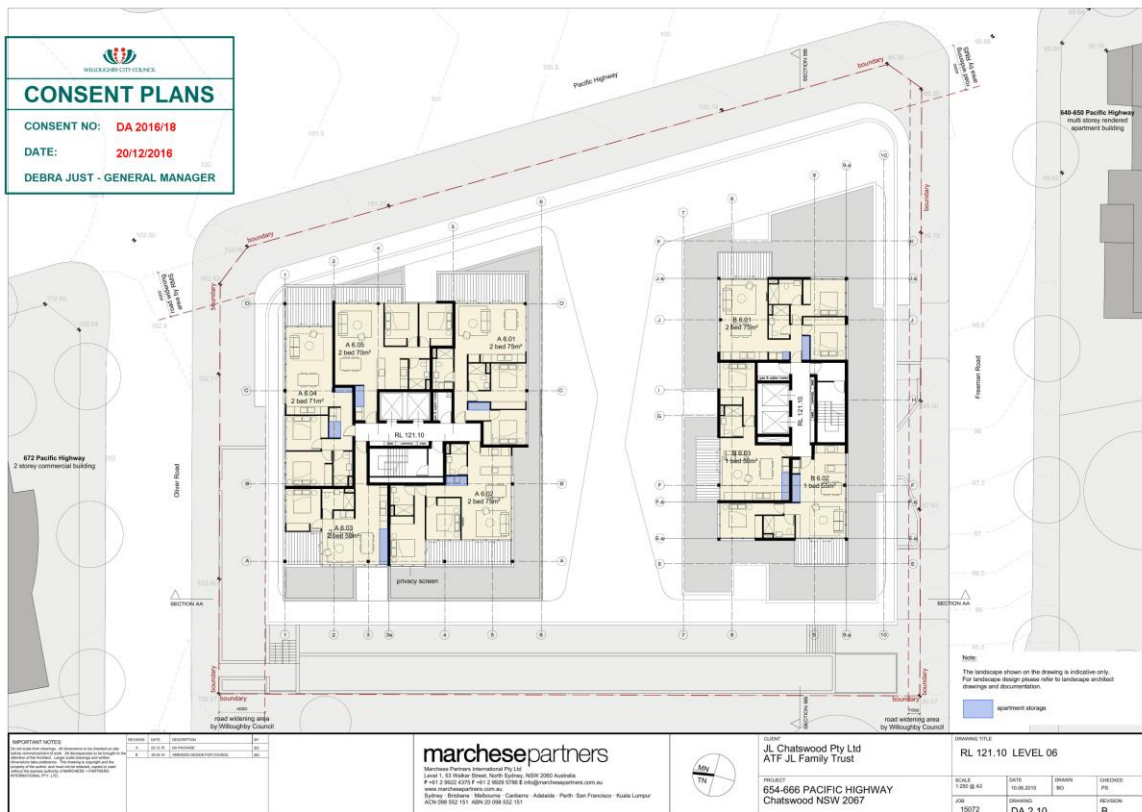
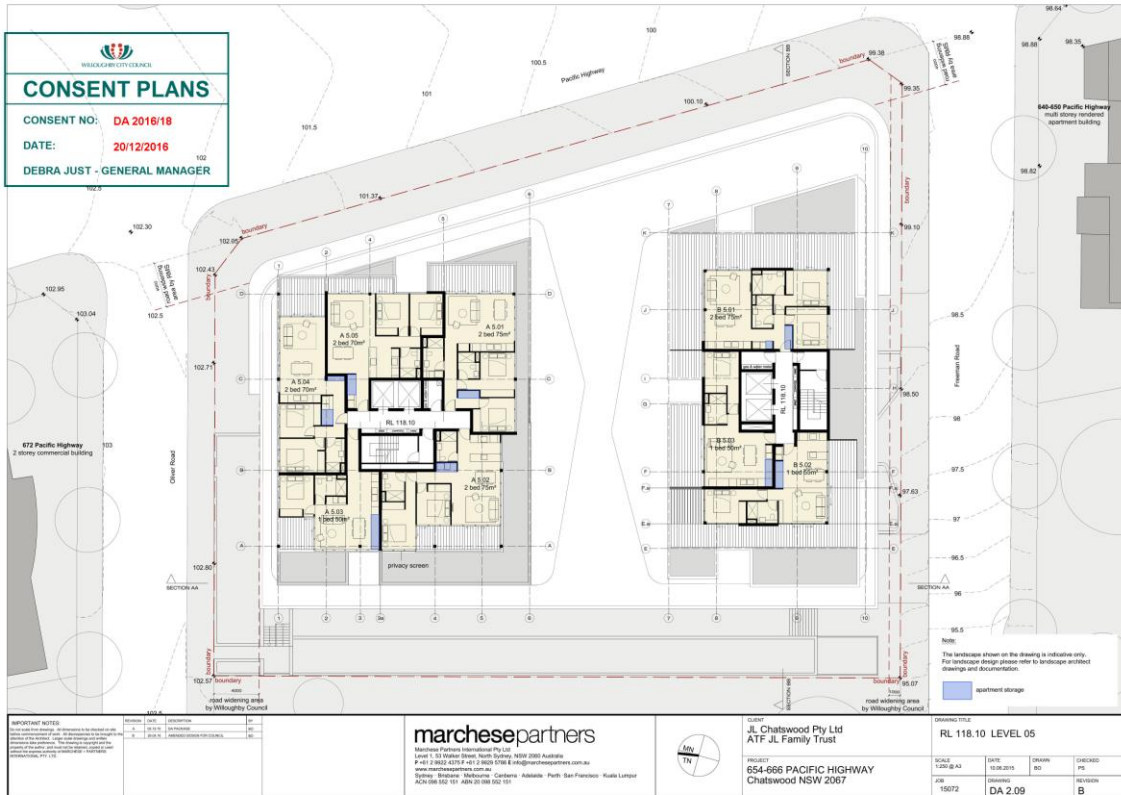
In accordance with the provisions of Clause 81A(2) of the Environmental Planning and Assessment Act 1979 the person having the benefit of the development consent shall appoint a Certifying Authority and give at least 2 days' notice to Council, in writing, of the persons intention to commence the erection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

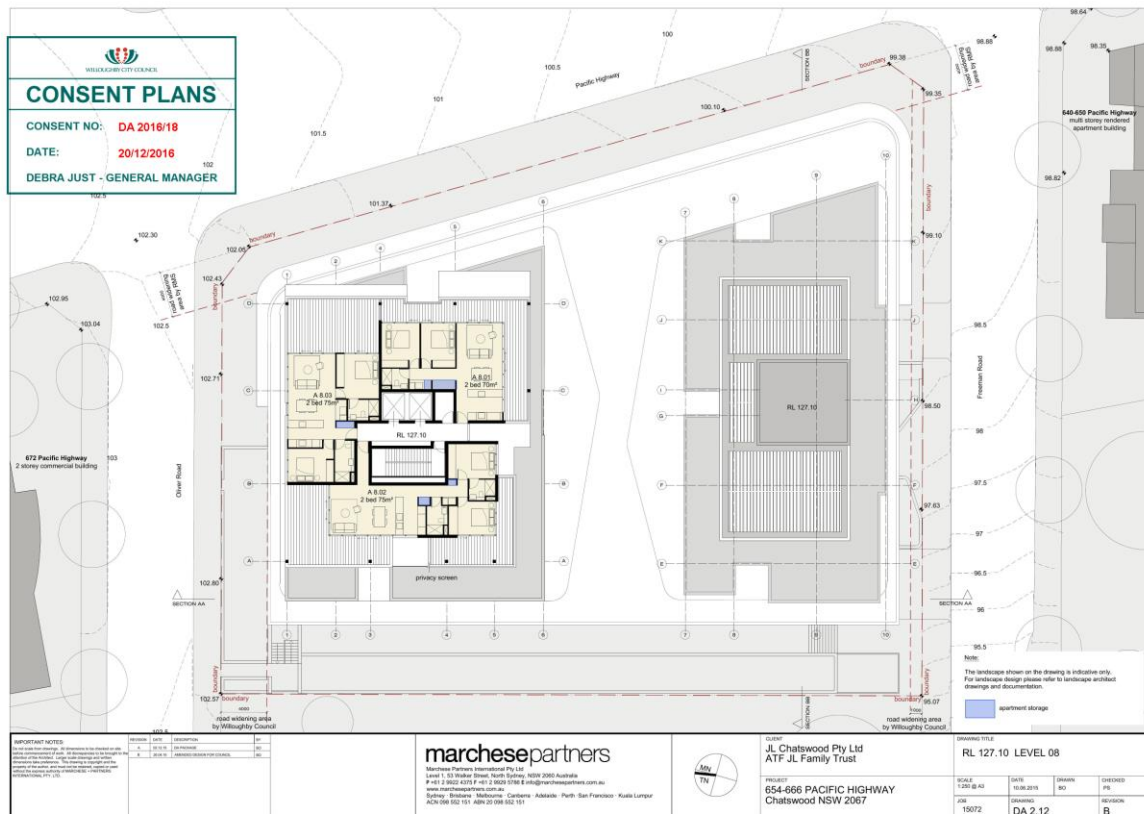
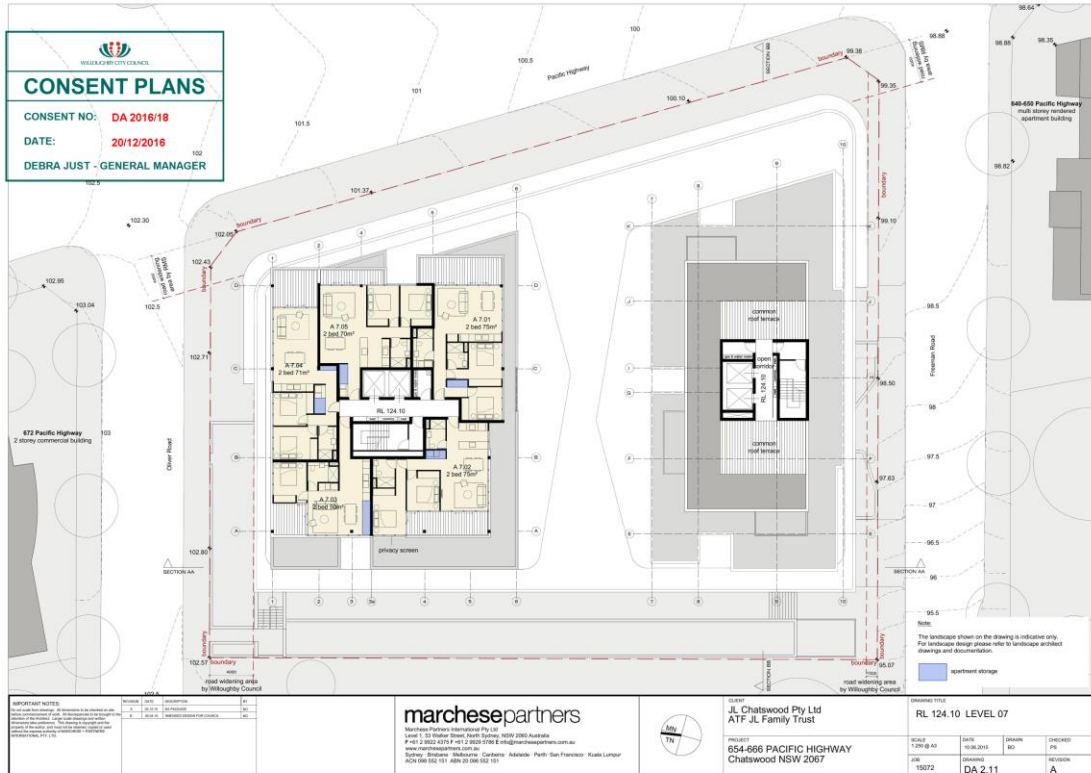
148. Occupation Certificate

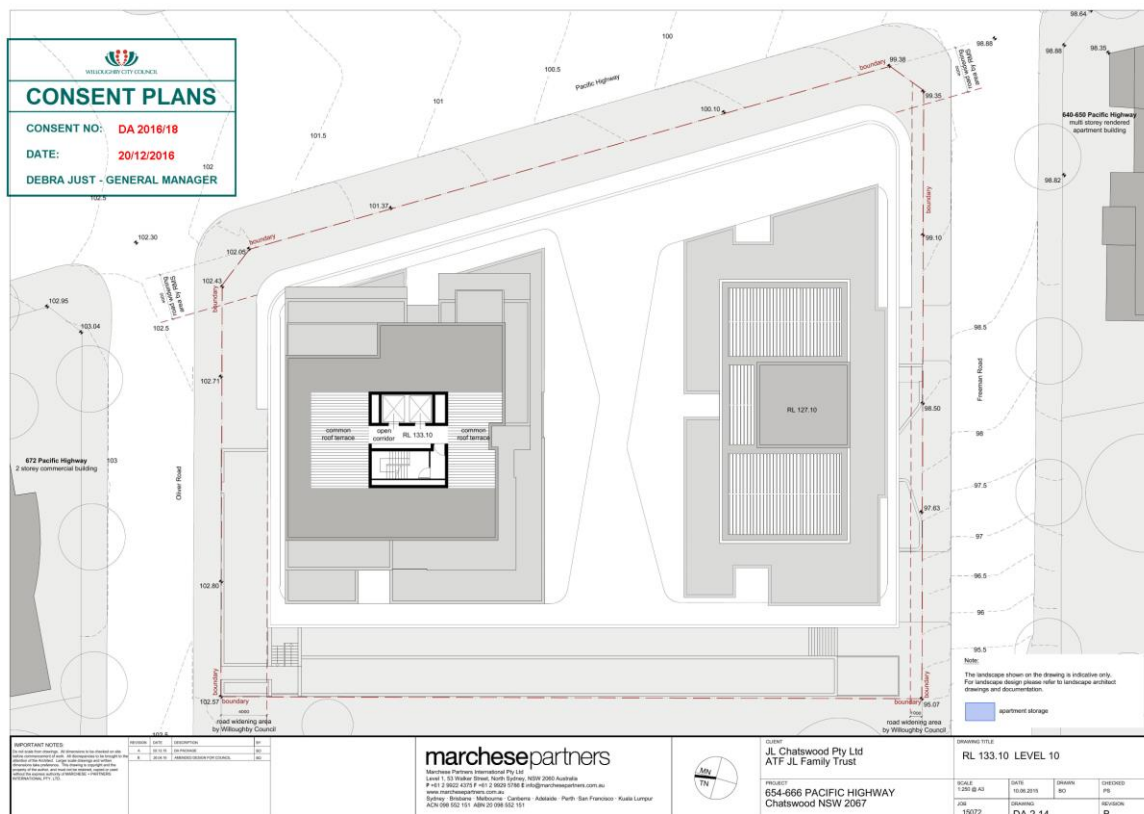
The building/structure or part thereof shall not be occupied or used until an interim occupation / final occupation certificate has been issued in respect of the building or part.
(Reason: Safety)

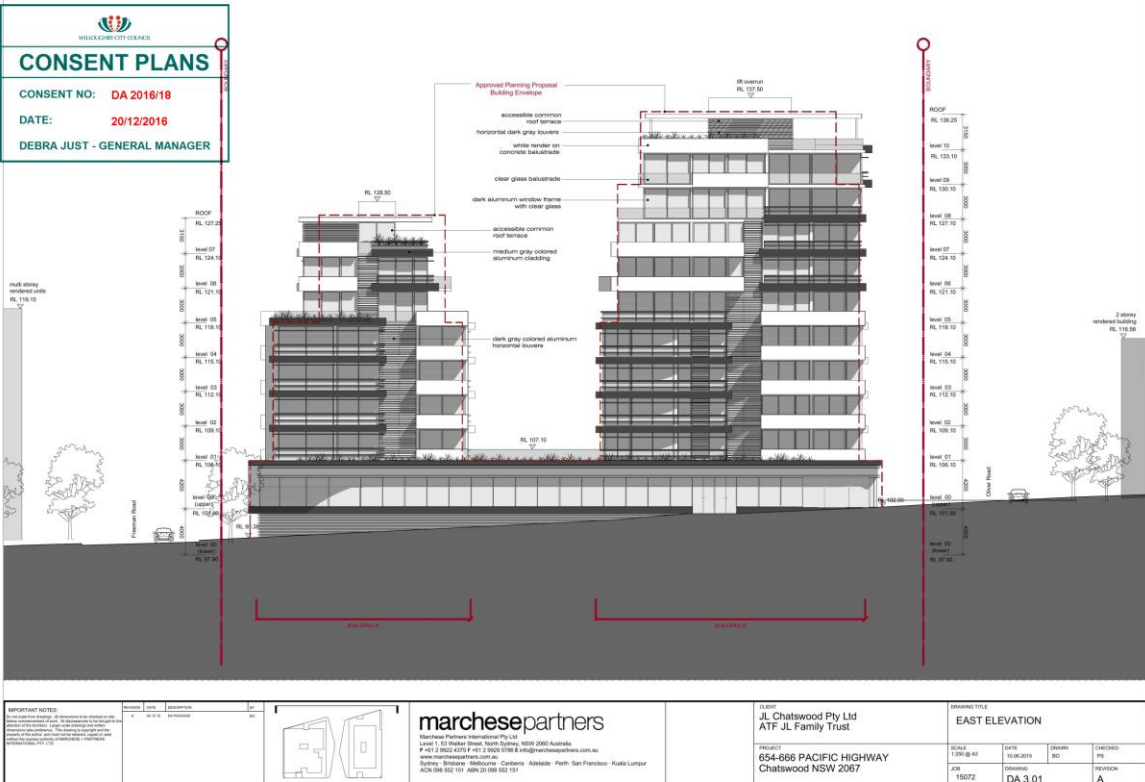
ATTACHMENT 13 – APPROVED PLANS DA-2016/18









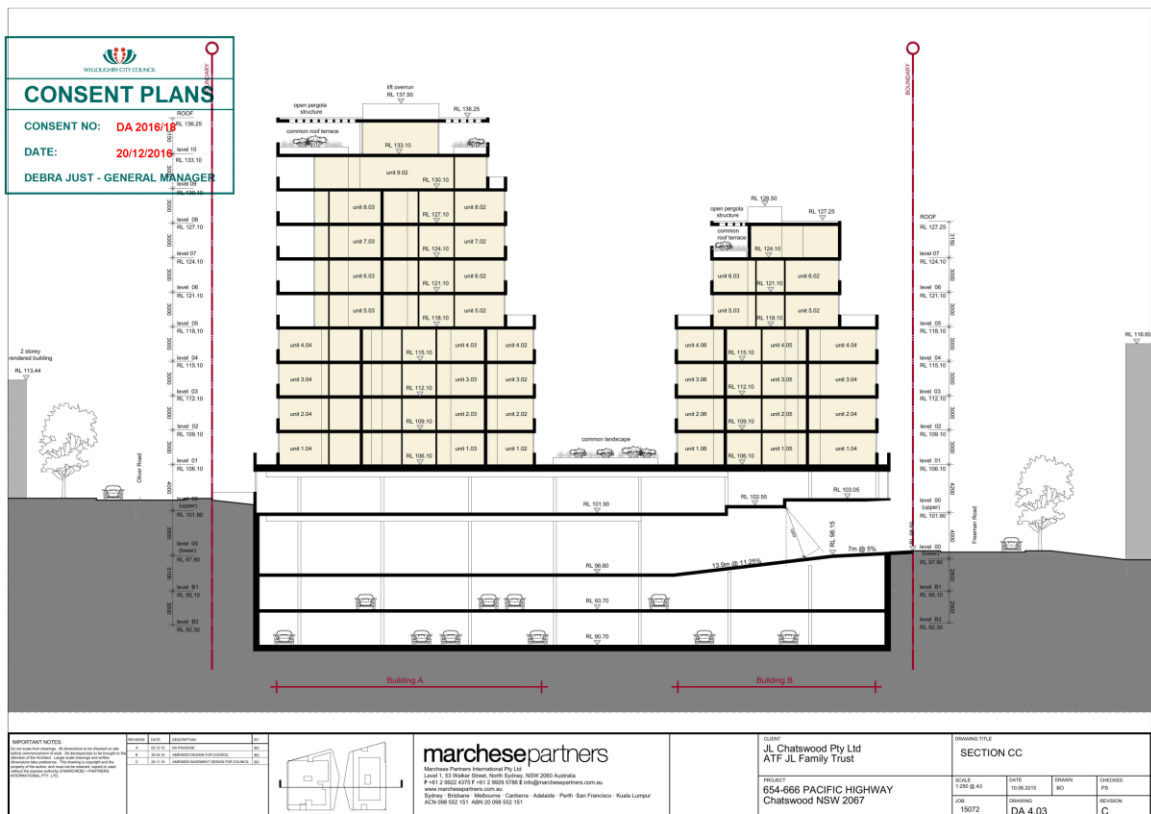
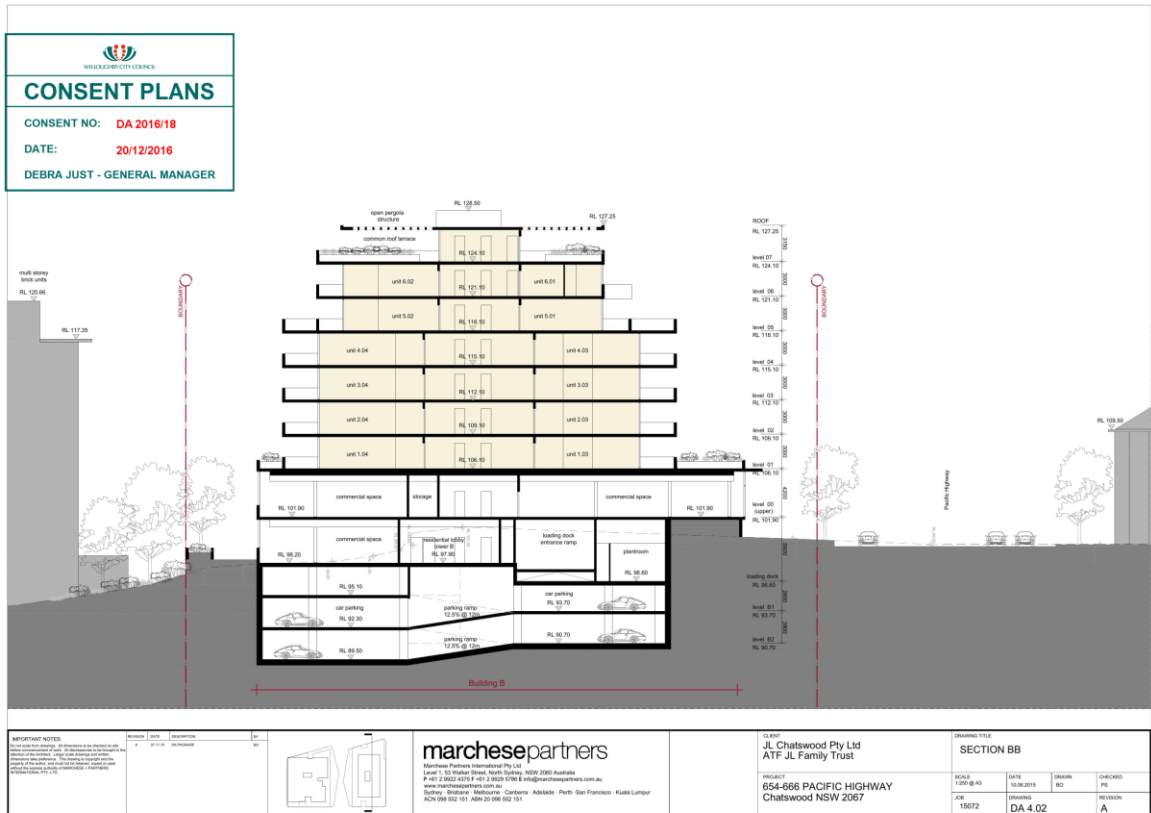


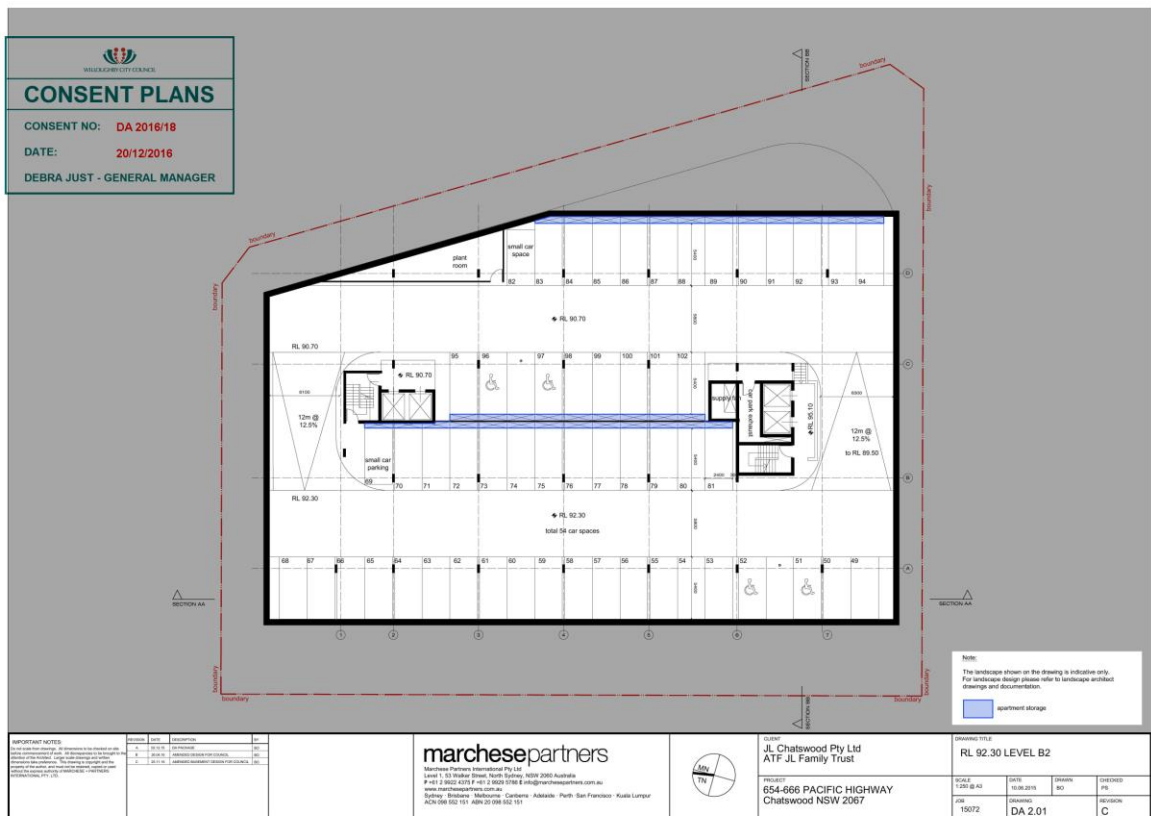
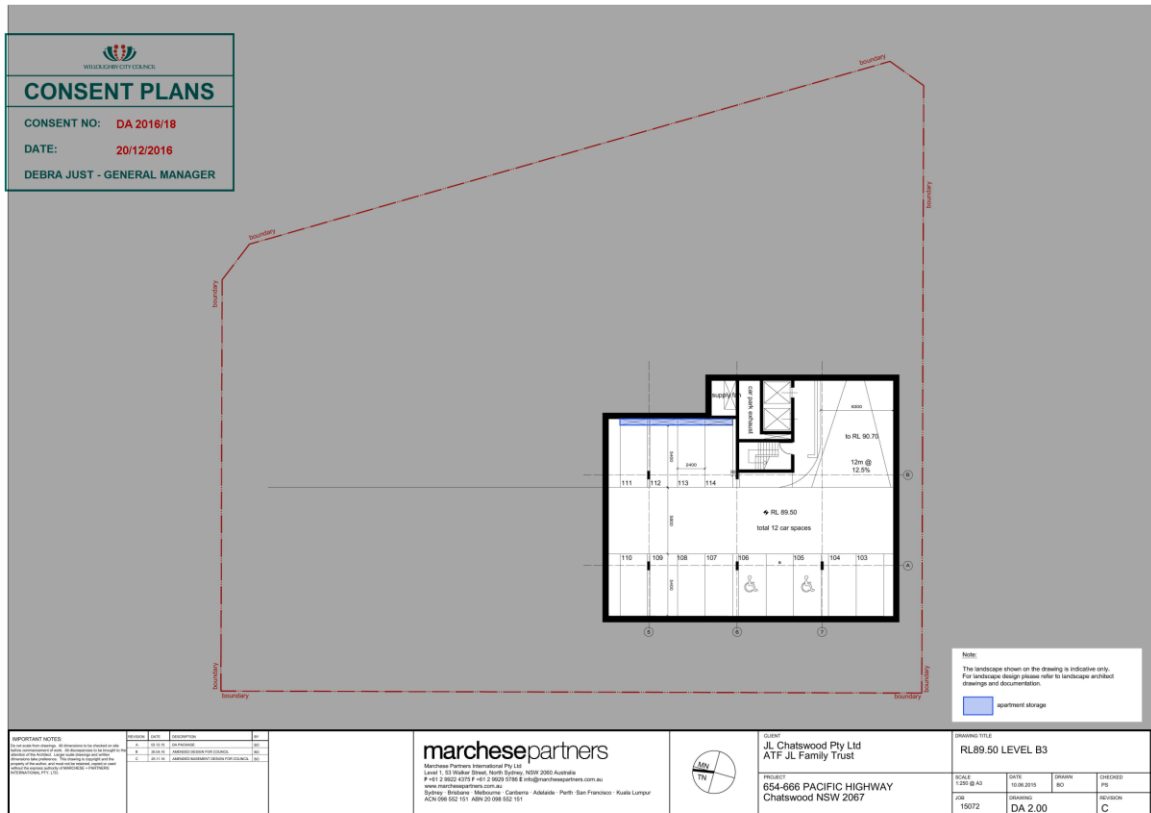
CONSENT NO: DA 2016/18
DATE: 20/12/2016
DEBRA JUST - GENERAL MANAGER

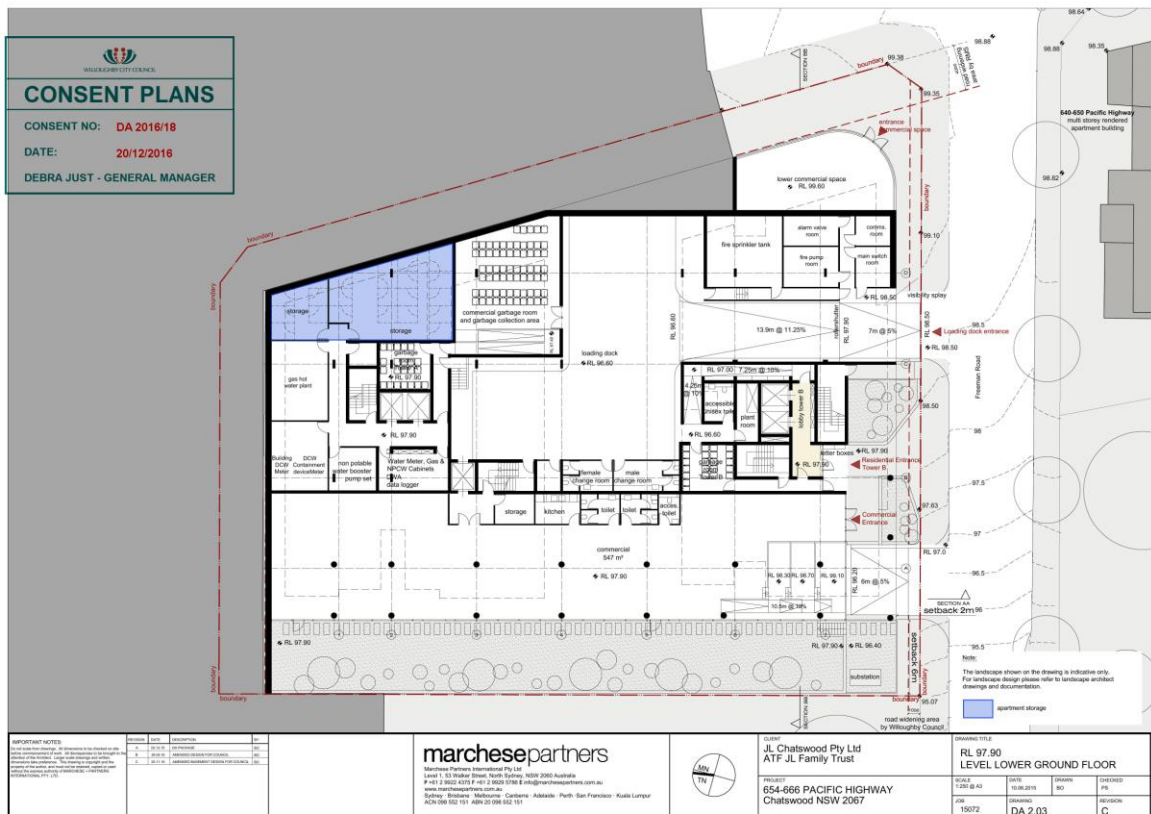
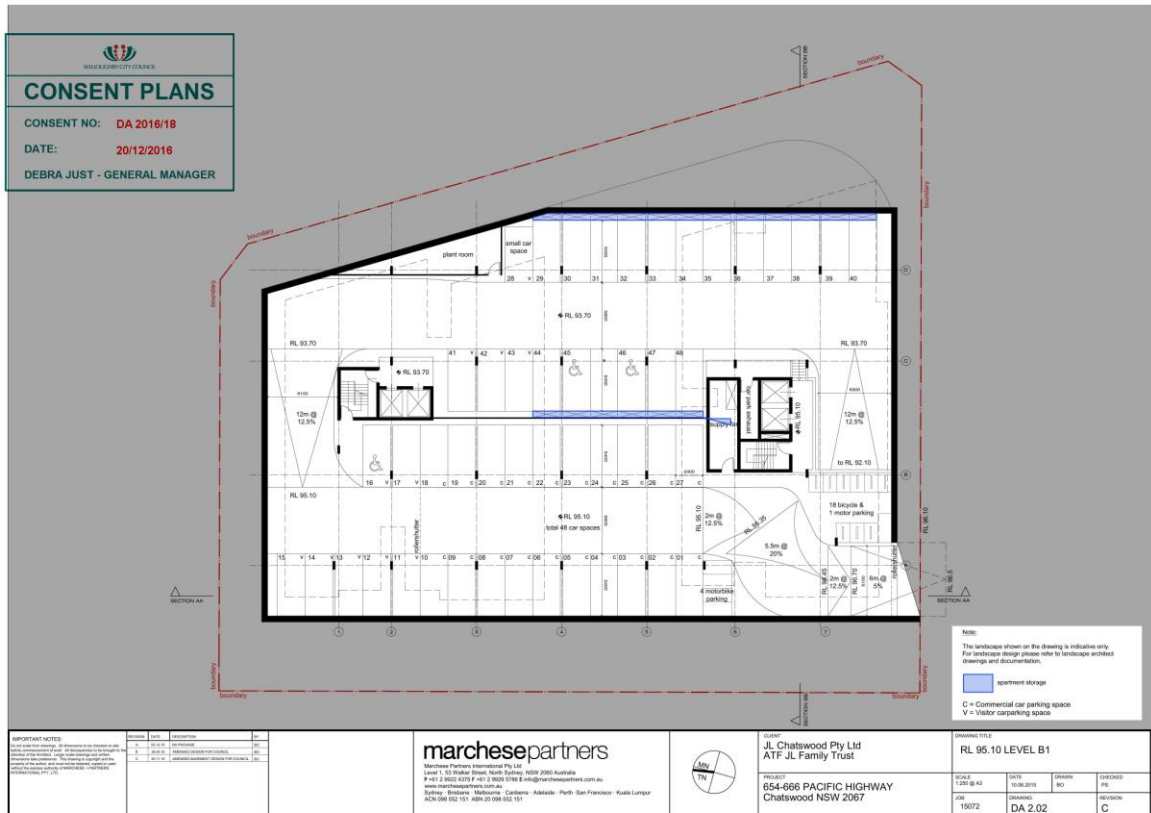


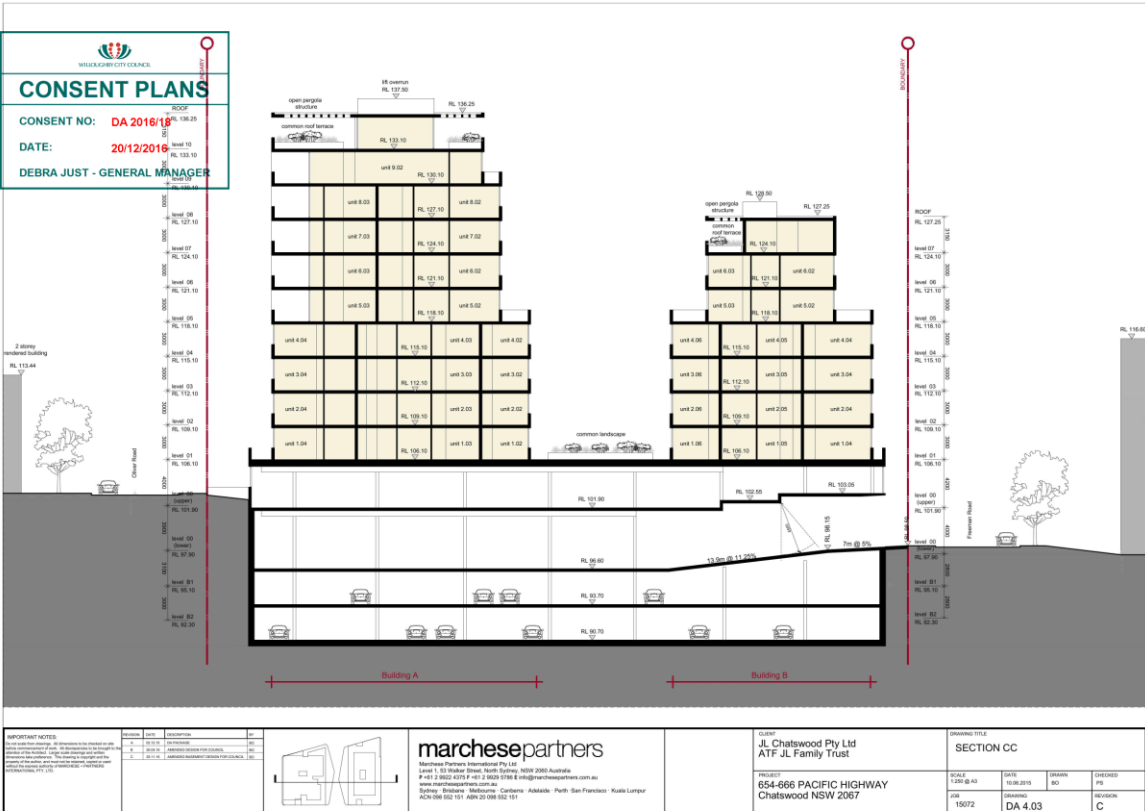
CONSENT NO: DA 2016/18
DATE: 20/12/2016
DEBRA JUST - GENERAL MANAGER

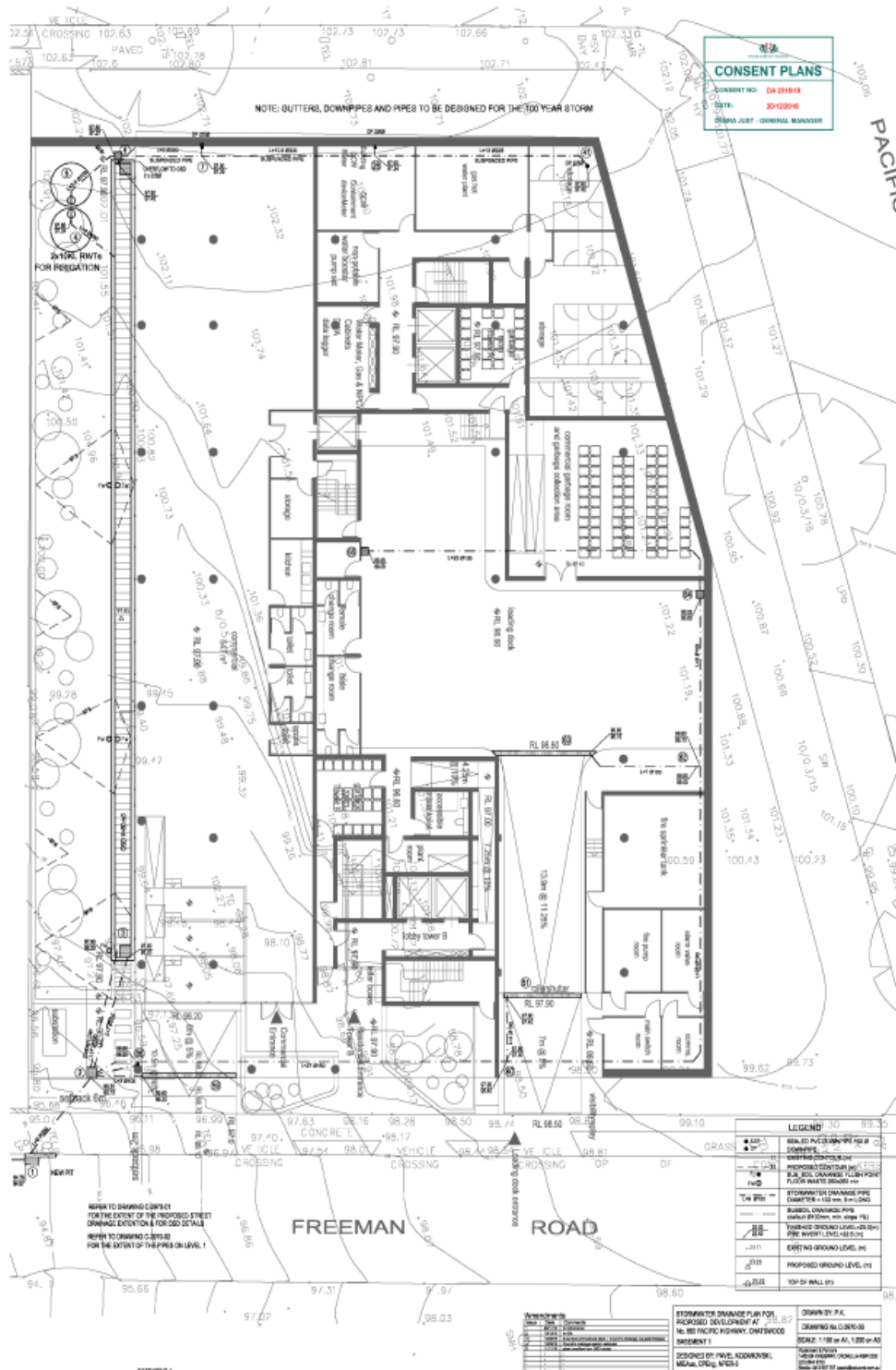












SHEET 1



LEGEND	
● 10" PUC	SEALED PUC GROUNDPIPE 100 R (4000PSI)
● 2"	EXISTING CONTOUR (m)
— 11	PROPOSED CONTOUR (m)
— 12	2.5% SLOPE CHANNEL (1:40) FOR FLOOD WASTE (2000 psi)
— 13	STORMWATER DRAINAGE PIPE (Diameter = 102 mm, 6 m L/D)
— 14	SEWER, DRAINAGE PIPE (Diameter = 102 mm, slope 1%)
— 15	FINISHED GROUND LEVEL (±0.0)
— 16	PIPE INVERT LEVEL (±0.0)
— 17	EXISTING GROUND LEVEL (m)
— 18	PROPOSED GROUND LEVEL (m)
— 19	TOP OF WALL (m)

BASEMENT NOTE:
IN ABSENCE OF GEOTECHNICAL REPORT IT IS RECOMMENDED
TO CONSTRUCT THE BASEMENT AS A "TANKED SYSTEM"
THE STRUCTURAL ENGINEER WILL HAVE TO DESIGN THE
SYSTEM TO BE ABLE TO WITHSTAND ALL FORCES AND
PREVENT CRACKING AND AN INGRESS OF ANY SEEPAGE WATER.

[illegible]



CONSENT PLANS

CONSENT NO: 04-201616

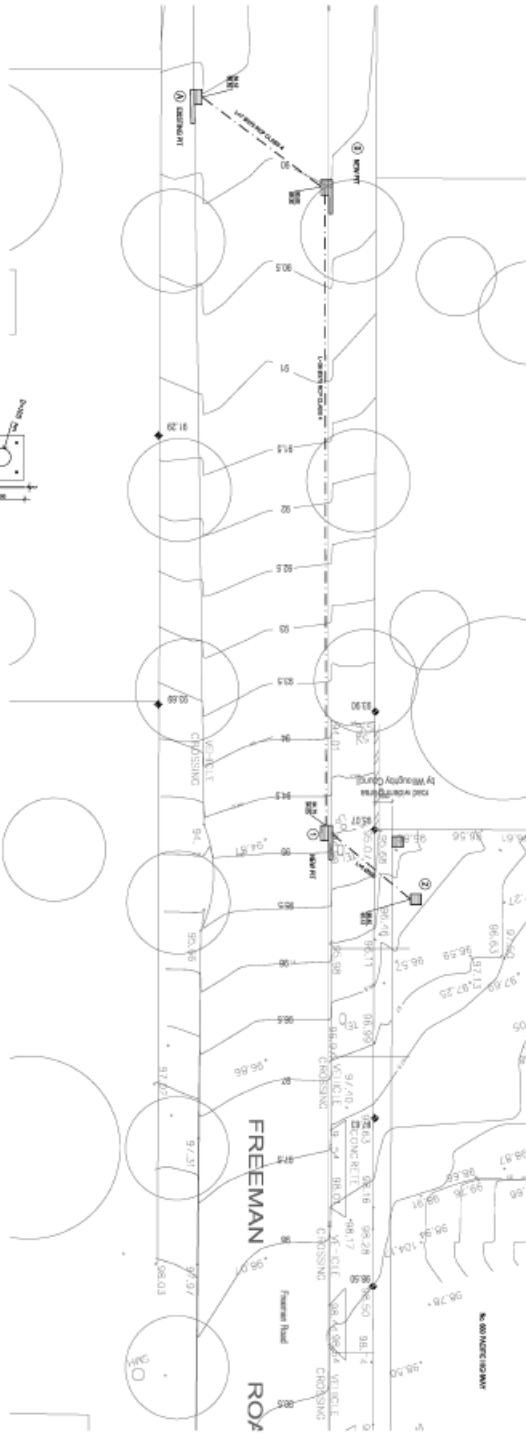
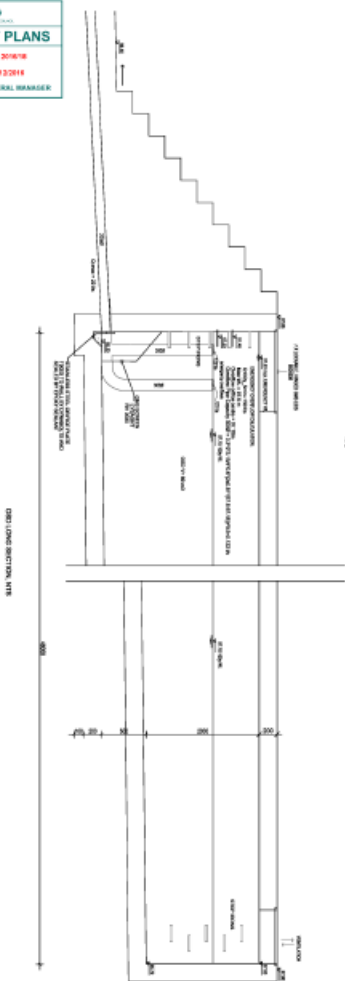
DATE: 20122018

DEBRA JAY : GENERAL MANAGER

LEGEND	
	SEALED PVC GOMPHINE 100 Ø
	DRAINAGE PIPES
	SUBJECT TO CONSTRUCTION
	PROPOSED CATCH BASIN
	SUBJ. SOIL DRAINAGE FLIGHT POINT
	FLOOR WASTE 200mm Ø
	STORMWATER DRAINAGE PIPE
	PIPE DIA=75 mm, S=+0.2%
	BUSSTOP DRAINAGE PIPE
	PIPE DIA=200mm, min. slope 1%
	PROPOSED GROUND LEVEL (+20.00)
	PIPE INVERT LEVEL (+6.50)
	EXISTING GROUND LEVEL (m)
	PROPOSED GROUND LEVEL (-7%)
	TOP OF WALL (m)

BASEMENT NOTE:
IN ABSENCE OF GEOTECHNICAL REPORT IT IS RECOMMENDED
TO CONSTRUCT THE BASEMENT AS A "TIED-SYSTEM"
THE STRUCTURAL ENGINEER WILL HAVE TO DESIGN THE
SYSTEM TO BE ABLE TO WITHSTAND ALL FORCES AND
PREVENT CRACKING AND AN INGRESS OF ANY SEEPAGE WATER

Accession Date: Author: Title: Subject: Source: Location: Date: Author: Title: Subject: Source: Location:	STORMWATER DRAINAGE PLAN FOR PROPOSED DEVELOPMENT AT NO. 881 PACIFIC HIGHWAY, DARTMOUTH SHEET 3 DESIGNED BY: PAVEL KODAROVSKI, MCAE, OFPC, NPS-3	DRAWN BY: P.K. DRAWING No. 0360-06 SCALE: 1/8" = 1' AT 1/2" = 1'
--	---	--

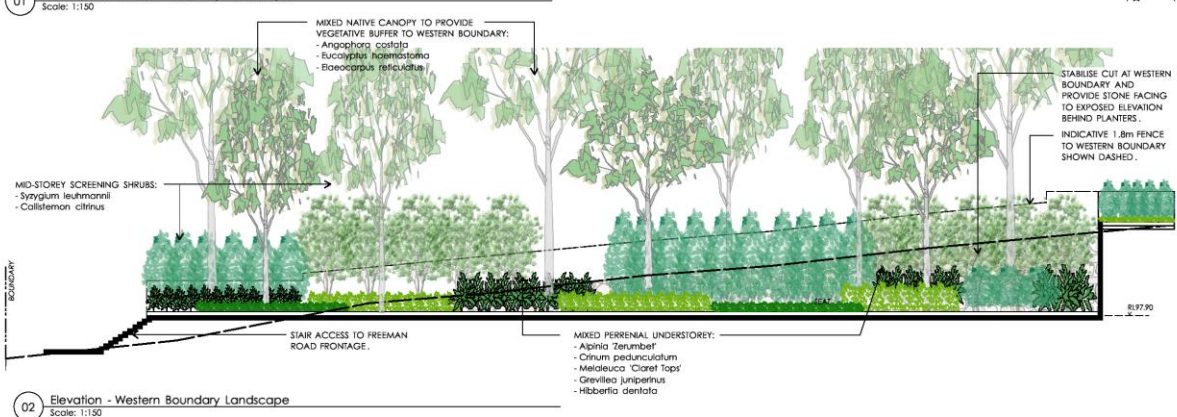
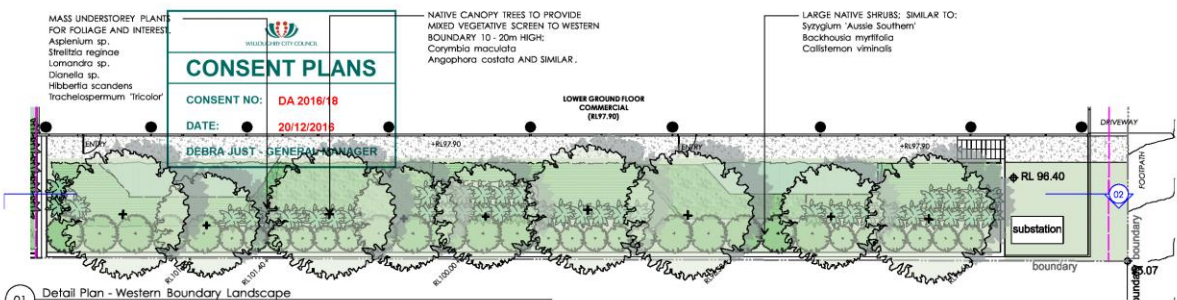
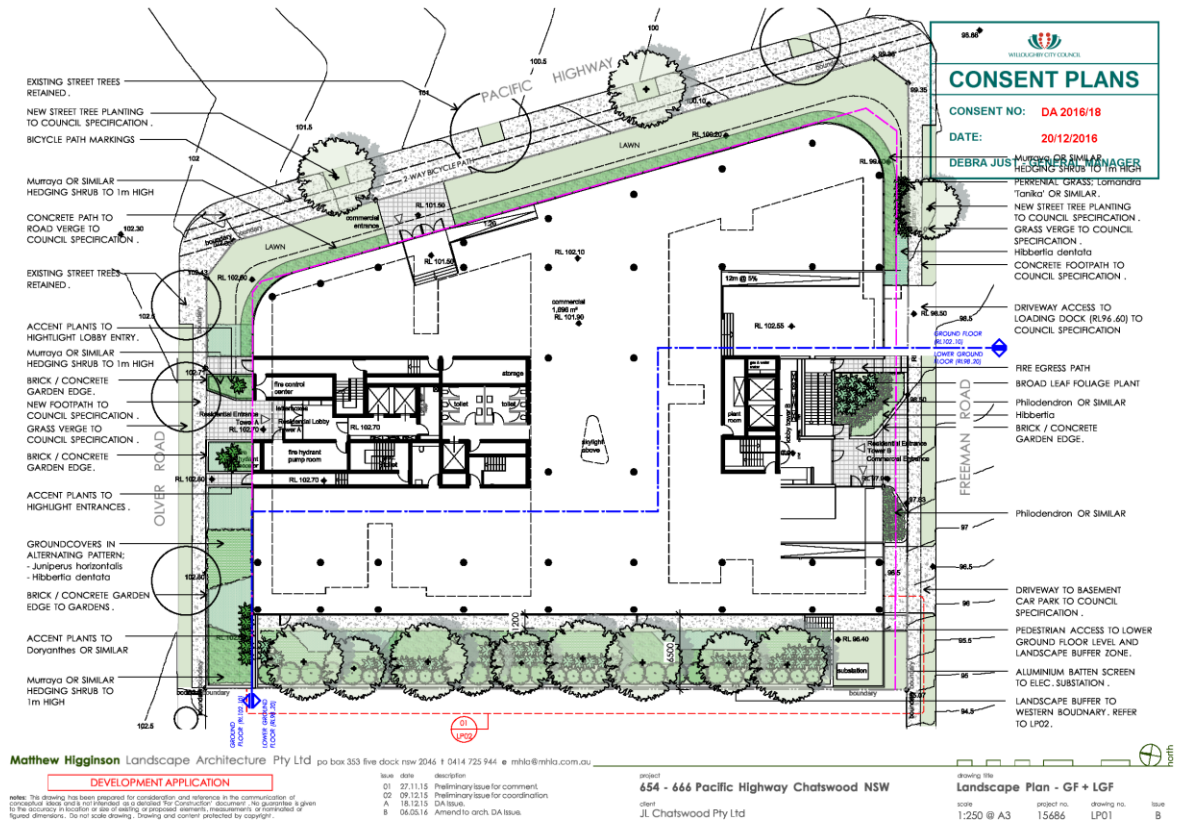


Item	Description	Quantity	Unit
1	Excavate and backfill	100	m³
2	Concrete slab	100	m²
3	Reinforcement	100	m
4	Gravel	100	m³
5	Asphalt	100	m²
6	Paint	100	litres
7	Labour	100	hours
8	Materials	100	kg
9	Tools	100	hours
10	Transport	100	hours

Item	Description	Quantity	Unit
1	Excavate and backfill	100	m³
2	Concrete slab	100	m²
3	Reinforcement	100	m
4	Gravel	100	m³
5	Asphalt	100	m²
6	Paint	100	litres
7	Labour	100	hours
8	Materials	100	kg
9	Tools	100	hours
10	Transport	100	hours

Item	Description	Quantity	Unit
1	Excavate and backfill	100	m³
2	Concrete slab	100	m²
3	Reinforcement	100	m
4	Gravel	100	m³
5	Asphalt	100	m²
6	Paint	100	litres
7	Labour	100	hours
8	Materials	100	kg
9	Tools	100	hours
10	Transport	100	hours

NOTES:
 1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LOCAL COUNCIL'S REQUIREMENTS.
 2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LOCAL COUNCIL'S REQUIREMENTS.
 3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE LOCAL COUNCIL'S REQUIREMENTS.





Indicative Plant Schedule - Streetscape

Botanical Name	Common Name	Mature Height (m)	Spread (m)
TREES			
<i>Acaphora costata</i> *	Sydney Red Gum	20	
<i>Eucalyptus hortaensis</i> *	Scrubby Gum	15	7
SHRUBS / PERENNIALS			
<i>Citrum pedunculatum</i> *	Swamp Lily	1	200m
<i>Daniella caesepia</i> *	Prairie Lily	0.9	140m
<i>Convolvulus esepia</i> *	Gomesia Lily	1.4m	
<i>Hibbertia dentata</i>	Twining Guinea Flower	-	140m
<i>Juniperus horizontalis</i>	Creeping Juniper	0.2	140m
<i>Lomandra 'tankii'</i> *	Tankia Mat Rush	0.8	140m
<i>Manrope paniculata</i>	Orange Jessamine	1 (H)	200m
<i>Chorizanthe 'xanthoides'</i>	Xanthoides	1.4m	
<i>Trachyspermum 'floricolor'</i>	Tricolor Jasmine	1.4m	

Indicative Plant Schedule - Roof Terraces

Botanical Name	Common Name	Measure Height (m)	Typical L (mm)
TREES			
Citrus sa...	(Lemon/Lime)	2.5	4
Pimenta oblonga	Frangipani	2.5	4
SHRUBS / PERENNIALS			
Acacia coarctata 'Limehill'	Limehill Dwarf Acacia	1	200m
Buxus microphylla	Baxwood	0.5	300m
Cassia ovata	Jaspe Tree	1	200m
Philadelphus 'Acanax'	Acanax Philadelphus	0.9	200m
Sonchiviera 'Moonlight'	Moonlight Sansevieria	0.5	200m
Strelitzia reginae	Tree of Paradise	1	200m
HERBS			
Polycnemum crispum	Garden Parsley	0.6	100m
Romarinus 'Tuscan Blue'	Tuscan Blue Rosemary	0.6	200m

Indicative Plant Schedule - Western Boundary

Botanical Name	Common Name	Height (m)	Soil (m)
TREES			
<i>Acacia</i>	Sydney Red Gum	20	7
<i>Banksia</i>	Primo Donna Blueberry Ash	7	15
<i>Banksia</i>	Scribbly Gum	15	8
<i>Leucadendron</i>	Small Leaved Lilly Pilly	8	15
SHRUBS			
<i>Albizia</i>	Variopetalled Shell Ginger	2	15
<i>Dodonaea</i>	Huh Bush	2	15
<i>Callistemon</i>	Crimson Bottlebrush	4	15
<i>Convolvulus</i>	Red Fl Plant	0.8	15
<i>Cornus</i>	White Cornus	2	15
<i>Syzygium</i>	Aussie Southern Lilly Pilly	5	15
GROUND COVERS / PERENNIALS / CLIMBERS			
<i>Chironia</i>	Swamp Lilly	1	15
<i>Dianella</i>	Little Jess Dianella	0.5	15
<i>Dichroanthus</i>	Silver Fairy	-	15
<i>Doronicum</i>	Gymea Lilly	-	15
<i>Hardenbergia</i>	Foxtail Sambarilla	-	15
<i>Hibiscus</i>	Trailing Guinea Flower	-	15
<i>Lonicera</i>	Torquatoe Mail Bush	0.8	15
<i>Scilla</i>	Purple Fantaree	-	15

Indicative Plant Schedule - Podium Landscape

Botanical Name	Common Name	Mature Height (ft.)	Soakly Size (L./ft.m)
TESS			
<i>Bacopastrum 'Prima Donita'</i>	Prima Donita Blueberry Ash	6	75L
SHRUBS / PERENNIALS			
<i>Acacia coarctata 'Umbrel'</i>	Umbrel Dwarf Acacia	1	200mm
<i>Canellula fulfura 'Russet'</i>	Russet Tree Plant	0.8	200mm
<i>Crasula ovata</i>	Jade Plant	1	200mm
<i>Philodendron 'Xanadu'</i>	Xanadu Philodendron	0.9	200mm
<i>Psychotria 'Snow Mist'</i>	Snow Mist Hawthorn	1	300mm
GROUNDCOVERS / PERENNIALS / CLIMBERS			
<i>Cornu pedunculatum</i>	Swamp Lily	1	200mm
<i>Dianella caerulea</i>	Paroia Lily	0.9	140mm
<i>Dianella King Albert</i>	King Albert Dianella	0.9	140mm
<i>Dianella 'Little Rex'</i>	Little Rex Dianella	0.5	140mm
<i>Dianella 'Dunthorne Escal'</i>	Gymea Lily	1	140mm
<i>Hibiscus dentata</i>	Trailing Guinea Flower	1	140mm
<i>Ipse masconi</i>	Ipse Masconi	0.8	140mm
<i>Lomandra 'Tonika'</i>	Tonika Mat Rush	0.4	140mm

* - Indicates Aust. native species or * - Indicates Aust. native sp* - Indicates* - Indicates

