

Panel Reference	PPSSNH-19
DA Number	DA2019/200
LGA	Willoughby
Proposed Development	Reconstruction and expansion of Chatswood Chase shopping centre and associated works
Street Address	345 Victoria Avenue, 12-14 Malvern Avenue and 5 Havilah Street, CHATSWOOD NSW 2067
Applicant/Owner	Urbis Pty Ltd / CC NO 1 Pty Ltd and CC NO 2 Pty Ltd
Date of DA lodgement	19 July 2019
Number of Submissions	16 submissions on behalf of 13 properties
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	capital investment value (CIV) over \$30 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act • SEPP (Infrastructure) 2007 - Clause 104 - Traffic Generating Development • SEPP 55 – Remediation of Land • SREP (Sydney Harbour Catchment) 2005 • Willoughby Local Environmental Plan 2012 • Willoughby Development Control Plan (WDCP) • Chatswood CBD Planning and Urban Design Strategy to 2036
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> 1. SITE DESCRIPTION AND AERIAL PHOTO 2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS 3. SUBMISSIONS TABLE 4. SECTION 4.15 (79C) ASSESSMENT 5. CLAUSE 4.6 EXCEPTION REQUESTING VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS 6. ASSESSMENT OF CLAUSE 4.6 EXCEPTION 7. SCHEDULE OF CONDITIONS 8. NOTIFICATION MAP
Report prepared by	Ana Vissarion
Report date	5 February 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

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

Yes

Clause 4.6 Exceptions to development standards

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

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Not Applicable

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

Conditions

Have draft conditions been provided to the applicant for comment?

**Yes, except for
flooding
conditions**

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

SNPP NO: PPSSNH-19

COUNCIL: WILLOUGHBY CITY COUNCIL

ADDRESS: 345 VICTORIA AVENUE, 12-14 MALVERN AVENUE AND 5 HAVILAH STREET, CHATSWOOD NSW 2067

DA NO: DA-2019/200

PROPOSAL: RECONSTRUCTION AND EXPANSION OF CHATSWOOD CHASE SHOPPING CENTRE AND ASSOCIATED WORKS

APPLICANT / OWNER: URBIS PTY LTD / CC NO 1 PTY LTD AND CC NO 2 PTY LTD

RECOMMENDATION: APPROVAL

ATTACHMENTS:

- 1 SITE DESCRIPTION AND AERIAL PHOTO
- 2 DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
- 3 SUBMISSIONS TABLE
- 4 SECTION 4.15 (79C) ASSESSMENT
- 5 CLAUSE 4.6 EXCEPTION REQUESTING VARIATION TO CLAUSE 4.3 HEIGHT OF BUILDINGS
- 6 ASSESSMENT OF CLAUSE 4.6 EXCEPTION
- 7 SCHEDULE OF CONDITIONS
- 8 NOTIFICATION MAP

AUTHOR: ANA VISSARION – SENIOR DEVELOPMENT PLANNER

RESPONSIBLE OFFICER: IAN ARNOTT – PLANNING MANAGER

DATE OF MEETING: 19 FEBRUARY 2020

1. PURPOSE OF REPORT

The proposal is regionally significant development as identified in Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*. It has a capital investment value (CIV) of over \$30 million and therefore Sydney North Planning Panel is the determination authority.

2. OFFICER'S RECOMMENDATION

That the Sydney North Planning Panel (SNPP):

- a. Supports the submitted Clause 4.6 variation to the *Height of buildings* development standard contained in Clause 4.3(2) of WLEP 2012 for DA2019/200 (345 Victoria Avenue, 12-14 Malvern Avenue and 5-7 Havilah Street, Chatswood) for the following reasons:
 - The proposal is compatible with surrounding context.

- The proposal generates acceptable amenity impacts on adjoining properties and on surrounding streetscapes and a more compliant scheme would not substantially diminish these impacts.
- The proposal results in an improved response to the adjoining heritage items and to North Chatswood Heritage Conservation Area when compared with approved development application for the same site DA 2017/503.
- The proposed variation will enable the provision of additional commercial office floor space and additional employment in Chatswood CBD.
- The proposals' non-compliance does not hinder the development's ability to satisfy the objectives of the control and the objectives of the B3 Commercial Core and B4 Mixed Use land use zones.

b. Approves the development and issue consent for DA-2019/200 for *Reconstruction and expansion of Chatswood Chase shopping centre and associated works* at 345 Victoria Avenue, 12-14 Malvern Avenue and 5-7 Havilah Street, Chatswood NSW 2067.

3. BACKGROUND

Chatswood Chase Shopping Centre has operated on the site since 1983. In 2007, the owner obtained development consent (Major Project No 06 0301) for a major upgrade and this was carried out in 2009. The applicant recently acquired the properties at 12-14 Malvern Avenue and 5-7 Havilah Street in order to carry out a further major upgrade and expansion of the shopping centre.

Willoughby LEP 2012 amendment

A Planning Proposal was lodged by Urbis (on behalf of Vicinity Centres, the applicant of the current DA) in July 2016 (the Planning Proposal) in order to align the height and FSR controls of 12-14 Malvern Avenue and 5-7 Havilah Street with those currently applying to the Chatswood Chase site and increase the building height applying to the northern portion of the greater site area of Chatswood Chase (fronting Malvern Avenue and part of Havilah Street).

On 22 September 2017 the Planning Proposal resulted in an amendment to the *Willoughby Local Environmental Plan 2012 (WLEP 2012)*. Subsequent to the amendment, in January 2018 Council approved the commencement of the Chatswood CBD *Planning and Urban Design Strategy to 2036*. The Strategy envisages a further uplift in the density controls applicable to the site to 90m.

DA 2017/503

Consent for DA 2017/503 for *Demolition of 2 commercial buildings, reconstruction and expansion of Chatswood Chase shopping centre* at 345 Victoria Road, 12-14 Malvern Avenue, 5-7 Havilah Street, Chatswood was granted approval on 7 June 2019 by Sydney North Planning Panel (SNPP).

DA 2017/503 was originally considered at the SNPP public meeting on 19 December 2018. SNPP ordered the parties to:

- Seek agreement regarding outstanding issues of disagreement; and
- Engage an independent hydraulic expert to undertake peer review of flood conditions and to assist the parties toward agreement.

As such, under this application, the flooding considerations were assessed by independent engineering consultants (Rhelm), as per SNPP recommendation. The flood report by CJ Arms was assessed by Council's external flood consultant (Lyll and Associates). The approval by SNPP was granted based on the independent engineers report and recommendation which includes a flood management plan with a maximum water depth in the basement in the 1% AEP flood depth of 0.2m and a PMF depth of 0.6m.

DA 2018/368

The applicant has lodged DA 2018/368 in support of DA 2017/503. The purpose of DA 2018/368 was to facilitate continued customer access to the existing David Jones tenancy during the construction process resulting from DA 2017/503. DA 2018/368 was later withdrawn by the applicant.

Current proposal (DA 2019/200)

The DA was submitted to Willoughby City Council under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and seeks development consent to amend approved DA 2017/503 to refine the design and layout of Chatswood Chase Shopping Centre. DA 2017/503 was approved by the North Sydney Planning Panel on 7 June 2019 and involves the '*Demolition of two commercial buildings, reconstruction and expansion of Chatswood Chase shopping centre*'. The current amending DA seeks approval for a reduced expansion of Chatswood Chase shopping centre relative to the approved DA. This specifically includes a reduction in the extent of additional retail floor area and car parking supply, together with nominal modifications to Malvern Avenue access arrangements and internal multi-deck car park layout and circulation. Given that the amending DA incorporates co-working space, the overall parking provision is reduced from 3,224 car spaces to 2,577 car spaces.

On 22 October 2019 the applicant chose to amend the plans even further in terms of land use mix and overall built form. These changes are the subject of this assessment and include:

- Internal and external changes to facilitate a greater provision of commercial office and co-working floor space at levels 3-5,
- A reduction in the overall provision of car parking including the removal of 4 levels of multi deck car parking fronting Malvern Avenue,
- A reduction in the areas within the scheme allocated to food and beverage, and re-allocation of the areas devoted to health and wellness and cinema to commercial office, providing additional setbacks and introducing outdoor spaces,
- Changes to Archer Street façade including extending glazed finish of pedestrian entrance from street level to top of parapet and additional void introduced to upper levels to break up built form.
- Internal amendments at the lower levels of the centre which mainly relate to changes in the locations of vertical circulation to the upper levels (lift, stairs and escalator cores).
- Amend the approved hours of operation to facilitate 24hour operation and access for the commercial office and co-working components.

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**. Referrals, relevant controls and development statistics that apply to the subject land are provided in **Attachment 2**.

The development exceeds the Height of Building development standard of 34m by (exceeds control by 2.86m or 8.4%). The increase in building form height accommodates the additional commercial office levels fronting Havilah Street. A Clause 4.6 objection to the Height of Building standard has been submitted by the applicant and included in **Attachment 5**. Assessment of the Clause 4.6 submitted is included in **Attachment 6** of this report. Taking into account the specifics of this case, the approved 2017/503 scheme and the entirety of the current proposal, the objection to the maximum Height of Building development standard for the site is supported.

In regard to vehicular access, the proposed access driveways remain similar to the ones approved by DA 2017/503:

- Existing Archer Street speed ramp to L2 retained.
- Approved access to L1 retained.
- Existing Malvern Avenue east unchanged.
- Approved Malvern Avenue west retained.

No signage details are proposed or assessed as part of this application.

In regard to flooding, the current application presented a number of challenges. In order to minimise flood impacts onto the properties located in Havilah Street, the applicant is now proposing to increase the maximum flood depth in the PMF event to 1.2m with reliance on mechanical measures and flood evacuation plans. The application was assessed externally by the independent flood consultant Lyall and Associates.

4. DISCUSSION

The assessment of the current application is made in the context of the approved DA 2017/503. The proposed reduction in bulk and scale at Victoria Avenue, Malvern Avenue and Archer Street facades present a more sympathetic design towards the heritage items in the proximity of the site and towards North Chatswood HCA. A Heritage Impact Assessment was lodged with the application and an updated Heritage Impact Assessment dated 22 October 2019 was submitted with the latest amended plans. While the scale of the proposed development at the Havilah Street façade is proposed to increase, the proposed finishes, articulation and setbacks offsets the perceived increase in scale. In consideration of the reduction in bulk and scale elsewhere on the site, this increase will not result in additional impacts upon the backdrop of the dwellings located within the North Chatswood HCA. Council's Heritage Officer advised that the proposal is unlikely to have negative impacts on the nearby heritage items or on the heritage conservation area.

A detailed assessment of the proposed development in accordance with 'The Matters for Consideration' under Section 4.15 of the *Environmental Planning & Assessment Act 1979* is provided in **Attachment 4**.

Owners of adjoining properties were notified of the proposal as originally lodged in and an amended version lodged in August 2018. The relevant notification periods for these two sets of DA documents were from 1 August to 22 August 2019; and from 8 November to 29 November 2019 respectively. A total of 16 submissions were received during the two submission periods. The issues of concern raised in these submissions relate to noise during construction, noise during operation, increased traffic, overshadowing, overlooking, landscaping. Further discussion of the issues raised in the submissions and the assessing officer's response is provided in **Attachment 3**.

5. CONCLUSION

DA 2019/200 was submitted to Council under section 4.17 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) proposing to amend DA 2017/503 which was approved in June 2019 for the expansion of Chatswood Chase Shopping Centre located at 345 Victoria Avenue, 12-14 Malvern Avenue and 5-7 Havilah Street.

When compared with the consent received for DA 2017/503, the proposal will result in an improved response to the adjoining heritage conservation area. The overall reduction in the bulk and scale at Victoria Avenue, Malvern Avenue and Archer Street will result in an improved overall design that better relates to its immediate context. Despite the height

exceedance proposed at the Havilah Street façade, the elevation is improved through the use of quality materials and façade articulation.

The latest amendments will have minimal overall impacts in terms of bulk and scale in the context of the previously approved schemes. When compared with DA 2017/503, the latest design provides a sympathetic response to the immediate context of lower density residential areas whilst still maintaining Chatswood Chase's primary commercial function within the Chatswood CBD Core.

In regard to flooding, the external consultant advised that the documentation provided is not comprehensive. In this regard, the external consultant engaged by Council notes that the applicant has not been able to demonstrate that the requirement not to increase the flood hazard in private property surrounding the development (refer Condition 3 of 2017/503 for all events up to the Probable Maximum Flood (PMF)) can be met. Moreover, the Applicant has not identified all of the potential ingress points for floodwater to enter the basement and provided suitable flood protection. However, despite the proposed increase in the maximum flood depth in the PMF event from 0.6m to 1.2m, with reliance on mechanical measures and flood evacuation plans, the external consultant is in support of the proposal. He recommended inclusion of a number of additional conditions, including one requiring the applicant to demonstrate that the proposed manual flood gates can be installed in a manner which addresses OH&S type issues. The Applicant must also demonstrate that the gates can be installed prior to floodwater commencing to enter the basement.

The current scheme enables additional commercial office floor space which will allow for the provision of additional office jobs, meeting Willoughby Council's vision for additional commercial floor space as identified within the Chatswood CBD Planning and Urban Design Strategy to 2036 (CBD Strategy) and recently exhibited Local Strategic Planning Statement (LSPS). Subject to conditions detailed in **Attachment 7**, approval is recommended.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The Chatswood Chase site consists of the properties at 345 Victoria Avenue, 12-14 Malvern Avenue and 5 Havilah Street Chatswood (the site).

The site is an irregular, created by amalgamating three lots with a total site area of 39,054.44m². The site is addressing four street frontages, Malvern Avenue to the north, Havilah Street to the east, Victoria Avenue to the south and Archer Street to the west. The legal property description of the site is Lot 10 DP 1143909 (345 Victoria Avenue, existing Chatswood Chase Shopping Centre), Lot 2 DP 785149 (5-7 Havilah Street, 2 storey strata titled) and Lot 100 in DP 776231 (12-14 Malvern Avenue, 2 storey strata titled).



Aerial photograph of subject site

The site drops by approximately 4m in the eastern part of the site (at Havilah Street) and rises toward the western, northern and southern boundaries.

Address	Description of Existing Structures
345 Victoria Avenue	Currently occupying the property at 345 Victoria Avenue is CCSC, a major regional shopping centre. The shopping centre consists of four levels of mixed retail, including three major retail tenants. Approximately 2,500 car spaces are provided over nine parking levels (both underground and above ground). Pedestrian access is situated at the Victoria, Havilah and Archer Street frontages.
5-7 Havilah Street	The property at 5-7 Havilah Street is occupied by a low rise commercial building with a landscaped front setback area.
12-14 Malvern	The property at 12-14 Malvern Avenue is occupied by a low rise

<i>Avenue</i>	commercial building with a large, open, lightly landscaped front setback area.
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The site is located on the eastern edge of the B3 Commercial Core zone and within Chatswood CBD. Chatswood Chase is one of the largest individual shopping centres in the Chatswood CBD. The majority of the area consists of retail and commercial buildings, being predominantly zoned B3 Commercial Core. The properties on the eastern side of Havilah Street and the northern side of Malvern Avenue are zoned R2 Low Density Residential and consist of detached, one and two storey dwelling houses in a landscaped settings.

Neighbouring Properties	Description of Existing Structures
<i>365 Victoria Avenue</i>	This property is occupied by a small, one to two storey brick church building, known as Chatswood Church of Christ. The building abuts the western edge of the existing Chatswood Chase Shopping Centre.
<i>369- 379 Victoria Avenue</i>	These properties, which comprise the remainder of the properties between the Chatswood Church of Christ and the intersection with Archer Street, are occupied by two to three commercial buildings, with a variety of retail, food outlet and business services. This includes Chatswood Plaza, a small shopping centre containing a variety of small retail outlets.
<i>Mills Lane</i>	This laneway services the rear of the properties at 365 to 379 Victoria Avenue and also provides access for service vehicles from Archer Street to Chatswood Chase Shopping Centre delivery bays.
<i>99-101 Archer Street</i>	This property is situated adjacent to the north-western corner of CCSC, at the intersection of Archer Street and Malvern Avenue. This property is occupied by Mercy Catholic College. The College is comprised of a variety of one to three storey brick buildings and open recreational space.
<i>16-18 Malvern Avenue</i>	This property is occupied by a two storey commercial building with a large, open, lightly landscaped front setback area.
<i>341 Victoria Avenue</i>	This property is occupied by a two storey, brick building with a pitched, tiled roof. The building is being used for commercial and health services facilities.
<i>339 Victoria Avenue</i>	This property, situated on the corner of Victoria Avenue and Havilah Street, is occupied by a three storey brick, residential apartment building with a flat roof. Garages are located at ground level. The building is surrounded by hard stand and landscaped areas.
<i>1-3 Havilah Street</i>	This property is occupied by a three storey, masonry, residential building with a flat roof. Car parking is provided underground with vehicle access from Havilah Street via two large garage doors. The front setback contains some modest landscaping.

The subject site is located in the central business district of Chatswood. The subject site comprises of three separate allotments with a street address of 12-14 Malvern Avenue (SP 36362), 5-7 Havilah Street (Lot 2 DP 785149) and 345 Victoria Road, Chatswood (Lot 10 DP 1143909). The subject site is not a heritage listed item and is not located within a Heritage Conservation Area (HCA). However, the site is located in proximity to a number of heritage items, and in proximity to the North Chatswood (C10) Heritage Conservation Area (HCA).

Heritage Item No	Address	Heritage details
58	105 Archer Street	<i>House (including original interiors)</i>
59	107 Archer Street	<i>House (including original interiors)</i>
133	256 Victoria Avenue	<i>Community Hospital.</i>

Heritage items in the vicinity of the site

The site is vulnerable to flooding. The site is located within the upper part of the Scotts Creek Catchment. The Catchment area at the site is approximately 1.5km² and is bound by Pacific Highway to the west, Mowbray Road to the south and Ashley Street to the north. The Catchment generally falls to the east, with much of the upstream stormwater converging on the site and Havilah Street. A Sydney stormwater culvert runs from Victoria Avenue, then north-east under 5-7 Havilah Street where it meets a pipe alignment in Havilah Street before combining into a closed concrete box culvert that continues downstream.

ATTACHMENT 2: CONTROLS, REFERRALS & DEVELOPMENT STATISTICS

Controls and Classification	
<i>Willoughby Local Environmental Plan 2012</i>	
Zoning	B3 Commercial Core & B4 Mixed Use
Primary Development Standards	<ul style="list-style-type: none"> Floor Space Ratio – 4.5:1 Height of Building – maximum 34m /40m (see Figure 4 below)
Other specific WLEP 2012 requirements	<ul style="list-style-type: none"> Clause 5.9 – Preservation of trees or vegetation Clause 5.10 – Local Heritage Items and heritage conservation area Clause 6.3 – Flood Planning Clause 6.7 – Active Street Frontages
Applicable DCP	Willoughby Development Control Plan (WDCP)
Applicable SEPPs	<ul style="list-style-type: none"> SEPP (Infrastructure) 2007 - Clause 104 - Traffic Generating Development SEPP 55 – Remediation of Land SREP (Sydney Harbour Catchment) 2005
Developer's Contributions	i) S7.12 Contribution applies. ii) Applicable rate (%): 3% iii) The cost of development: \$318,423,041 iv) Date of accepted cost of development: 21/10/2019 v) The total contribution payable (subject to Building Price Indexing (Enterprise Bargaining Agreement)): \$9,552,691.23

<i>Willoughby Local Environmental Plan 2012</i>				
		Proposed	Control	Compliance
Cl. 4.3	Height of Buildings	36.86m (RL 116.53) and 36.56m (RL 116.45) – max height at lift cores (exceeds control by 2.86m or 8.4%).	34m - southern part 345 Victoria Avenue and 5-7 Havilah Street	No (Cl.4.5 submitted)
		40m	40m northern part 345 Victoria Avenue and 12-14 Malvern Avenue (see Figure 4 below)	Yes
Cl. 4.4	Floor Space Ratio (FSR)	2.96:1	4.5:1	Yes
	Gross Floor Area	115,466m ²	175,743m ²	n/a

	(GFA)			
	Gross Lettable Floor Area (GLFA)	87,025m ²		n/a
Car Parking	Car parking Motorcycles Bicycles	2,577 car spaces 104 spaces 322 spaces		
Hours of Operation (retail)	6am to 12am, 7 days a week			Yes
Hours of Operation (office)	24 hours, 7 days a week			Yes

Main development standards applicable to the site

Referrals

The application was externally referred to Roads and Maritime Services (RMS). Conditions recommended were included into the amended Schedule of Conditions in **Attachment 7**.

The application was externally referred to Sydney Water. Sydney Water advised that the recommended conditions for 2017/503 continue to apply.

The application was externally referred to Chatswood Police. Conditions recommended for 2017/503 continue to apply.

The application was externally referred to LYALL & ASSOCIATES, an independent qualified civil engineer, specialised in flood analysis and management, to review the Preliminary Flood Study Report, in order to advise in regard to flooding. The consultant advised that, *“provided the Applicant addresses the flooding related conditions to the satisfaction of Council and its independent flood analysis and management specialist, then the Application, from a flooding point of view, could be approved by Council”*.

Councils Infrastructure Services Division had no objection in regard to stormwater subject to conditions.

Councils Landscape Officer had no objection subject to conditions.

Councils Heritage Architect had no objection to the proposal.

Council's Environmental Officer had no objection subject to recommended conditions.

Council's Waste Officer had no objection and advised that conditions recommended for 2017/503 continue to apply.

ATTACHMENT 3: SUBMISSIONS TABLE

Owners of adjoining properties were notified of the original proposal between 1 and 22 August 2019 and the amended proposal was notified between 8 November and 29 November 2019.

Submissions on behalf of thirteen (13) properties were received with the original notification. Most of these submissions raised general issues addressed in the table below:

<u>Issues raised</u> (1 st notification)	<u>Comments</u>
In the last years “car park noises extend to late night”.	Vehicular movements within the carpark are expected to decrease substantially after midnight. Conditions of consent prevent deliveries after 10pm. As vehicle access to the car park between 10pm and 6am is to take place only via Archer Street and Victoria Avenue, parts of the car park in the vicinity of these entries will be more accessed at night time, minimising noise into the areas that adjoin residential dwellings.
“Upgrades to shopping complexes should not sacrifice local residents' living condition”	Care for the amenity of the local residents has been incorporated into the assessment of the current application. The existing building, CBD context and approved DA 2017/503 present a framework with multiple limitations. Nonetheless, the living conditions in the area are expected to improve once the development is completed.
Disruption, both physical and noise, caused by the construction process - the safety and wellbeing of students and families associated with Mercy Catholic College should be a priority	Conditions of consent ensure that noise and disruption during construction is kept within the legal limits. Furthermore, the applicant applied for extension of construction hours on Saturday (similar to CDC permissibility). The amended condition for construction hours will give opportunity to finalise the construction in less weeks when compare to the already approved 2017/503.
Why do we need a bigger and bigger built environment in Chatswood? The environmental footprint of these buildings is massive - totally out of tune with how we will build shopping spaces in 20 years' time.	Council is assessing applications as submitted by applicants. The choice to build a bigger Chatswood Chase belongs to the owner of the site. Nonetheless, the subject application chose to diminish the scale of the proposal when compared with approved DA 2017/503 and to replace shopping areas within the development with office spaces.
As the owner of Roseville Cinemas locate at 112 Pacific Hwy Roseville, I see no need for the addition of 7 screens in the proposed upgrade of Chatswood Chase shopping centre.	No additional cinemas are proposed in the current amended scheme.
Concern with the increased traffic this large development during construction and once the shopping centre is finalised. Traffic considerations should include other local growth that will take place in Chatswood CBD.	The number of car spaces proposed with the current scheme is decreased by 647 car spaces, when compared with the approved DA 2017/503.
It would be very helpful if I could be	Council does not this information, noting that DA

<u>Issues raised</u> (1 st notification)	<u>Comments</u>
given some indication of the timeline for the building works so I can plan accordingly.	2017/503 was approved in June 2019 and the consent is valid for 5 years. However, similar sized centres took around 3-4 years to be built.
Delivery trucks should come after 6am.	The operating hours of the shopping areas within the development are restricted from 6am to midnight, 7 days per week. Deliveries are restricted from 7am to 10pm, 7 days per week.
We are a tourist destination, let us give them an all-inclusive experience of accommodation, transport, shopping, food outlets to remember and talk about back home and entertainment.	Although the quality of the food outlets inside of the development is not under assessment at this stage, the applicant indicated that services and fittings are planned to be modern and of highest quality.
The significant massing impact of the new development appears to completely dwarf the small residential buildings adjacent (specifically 1-3 Havilah St), we want to ensure the setbacks are protected to enable sufficient solar access and privacy and amenity for residents.	The setbacks to 1-3 Havilah St remain the same as approved by DA 2017/503.
Landscape building screening to Havilah and Malvern Avenue relies on Council trees. It appears that landscape is significantly less when compared with 10 years ago. Trees with a mature height of 10-12m should be planted and maintained.	Noted and agreed that proposed landscaping does not screen the proposed building. However, taking into account the existing situation, the zoning and the CBD location, Council's Landscape Architect did not object to the proposal. As a note, however, the landscaping conditions approved with DA 2017/503 continue to apply.
Clarification of location of ventilation systems (passive and electric), in relation to close proximity to 1-3 Havilah St in regard to noise from fans (and any vapours or smells).	The ventilation systems are at sufficient distance and, completed to specifications, are not expected to create further disturbing noise, vapours or smells for residents in 1-3 Havilah St, when compared to existing situation.
A 12 storeys high car park will ruin the ambience of the residential houses in a conservation area and our backyard at 23 Blakesley Street will look right into it. I hope Council will still have a chance to reduce the height of the car park.	The amended proposal reduced the height of the car park at the rear (to Malvern Avenue) by 11m.

Submissions on behalf of 3 properties were received at re-notification. All submissions were on behalf of units located in the 1-3 Havilah Street. The submissions raised the following concerns summarised in the table below:

<u>Issues raised</u> (2 nd notification – current scheme)	<u>Comments</u>
Potential noise from construction works; “noise and dust will lower living health and environment to below standards”.	Noting that construction is a temporary state, standard conditions of consent are imposed in regard to noise and dust associated with the construction works.
Potential fire hazard from people	The proposal is to demolish and incorporate into

<u>Issues raised</u> (2 nd notification – current scheme)	<u>Comments</u>
smoking night and day on alleyway, between Chatswood Chase wall and 1-7 Havilah Street, due to trees (& leaves) that might ignite as Chatswood Chase did not remove the trees as requested by residents back in 2010.	the new development the building at 5-7 Havilah Street. Proposal has nil setback to the boundary on the northern side of 1-3 Havilah Street. Therefore, the alleyway in question does not exist in the proposal. Notwithstanding this, regulating the behaviour of people smoking in the vicinity of Chatswood Chase is outside the scope of this application.
It is no clear indication if a new vehicular entrance is proposed on Havilah Street – “all residents on Havilah Street would be against it”.	No vehicular entrance is proposed on Havilah Street.
“My mother’s unit at level 1 in 1-3 Havilah Street, directly adjoining the development to the south, will be extremely dark and cold due to additional height”.	The overshadowing diagrams submitted with the current scheme demonstrate that units in 1-3 Havilah Street will receive minimum required by sunlight during winter and marginally increased light during summer time, when compared with approved DA 2017/503.
Potential “disruption of foundation and cracking of 1-3 Havilah Street from construction works”	The dilapidation condition imposed with DA 2017/503 remains unaltered by current application.
Potential overlooking of the units in 1-3 Havilah Street during construction works.	The drawings submitted with the application demonstrate that privacy of the units is maintained once construction completed. However, during construction works, which is a temporary situation, there are no controls that regulate potential overlooking, other than the hours of construction, limited during day time only.
Access via Havilah Street and Malvern Avenue for office hours, 24 hours per day, 7 days a week will disturb residential amenity.	Noted. Vehicle access to the car park between 10pm and 6am is to take place via Archer Street and Victoria Avenue only.
The line of trees at rear of 1-3 Havilah St should be reinstated.	Part of the trees at the location are proposed to be removed due to the works. At this location it is proposed the overland flood path for the site. Reinstating the vegetation within this zone restricts the capacity of the floodway.
Residential properties at the rear of 1-3 Havilah St are completely dependent on solar access from the west (over the Chase roof). Concerns include retention of the 4.3M setback along our boundary where the tree line is; solar access over Chase roof and retention of the sloping colour bond roof.	The setbacks approved by DA 2017/503 in the vicinity of 1-3 Havilah Street remain unchanged. However, increase in height to the north is proposed along with partial removal of vegetation to west of 1-3 Havilah Street. The sloping roof is not retained in the approved or proposed schemes.
The NSW Wide Infrastructure Advocacy (Willoughby Branch) supports the proposed development of Chatswood Chase Shopping Centre but questions the need for a further ten (10) movie theatres in Chatswood.	Instead of additional cinemas / movie theatres, the amended proposal now includes co-working office spaces.

ATTACHMENT 4: SECTION 4.15 ASSESSMENT

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	<p>WLEP 2012:</p> <p>The subject land is zoned B3 Commercial Core and B4 Mixed Use. The main uses of retail and office premises (co-working areas) are permissible with Council consent and meet objectives of the B3 zone <i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community and To encourage appropriate employment opportunities in accessible locations</i>, as well as objectives of the B4 zone <i>To provide a mixture of compatible land uses and To integrate suitable business, office, residential, retail and other development in accessible locations</i>.</p> <p>Other associated retail areas, vehicle parking, amenities, loading docks, vertical circulation and access areas are all ancillary to the retail premises and therefore form part of the retail premises. The cinema comes within the definition of 'entertainment facility'. Other areas come under the definition of 'recreation facility (indoor)'. All these uses ('retail premises', 'entertainment facility' and 'recreation facility (indoor)', 'recreation area', 'office premises' and 'business premises') are permissible in both the B3 and B4 zones.</p> <p>As a note, The proposal does not include any residential component. The proposed development will enhance the commercial and office functions of the Chatswood CBD.</p>	
	<p>Clause 4.3 - Height of Buildings</p> <p>The development exceeds the Height of Building development standard as provided in the Development Statistic Table in Attachment 3 of this report. The increase in building form height accommodates the additional commercial office levels fronting Havilah Street. A Clause 4.6 objection to the Height of Building standard has been submitted by the applicant and included in Attachment 5. Assessment of the Clause 4.6 submitted is included in Attachment 6 of this report. Taking into account the specifics of this case, the objection to the standard is supported.</p> <p>Clause 4.4 - Floor Space Ratio</p> <p>The proposal complies with the maximum Floor Space Ratio (FSR) standard for the site.</p>	
	<p>Clause 5.10 – Heritage Conservation</p> <p>The proposal will have minimal impact on nearby heritage items and on the adjoining heritage conservation area.</p> <p>Clause 6.5 – Signage</p> <p>No additional signage zones are proposed. Signage details will be the subject of a future application.</p> <p>Clause 6.7 – Active Frontages</p> <p>Victoria Avenue and Archer Street are identified as Active Street Frontages. The main retail frontages to both these streets are generally proposed to be glazed where practical.</p>	
	<p>SEPP (Infrastructure): The application provides for less car parking spaces when compared with approved DA 2017/503. Clause 104 of the SEPP (<i>Infrastructure</i>) is applicable. The proposal has been referred to Roads and Maritime Services (RMS) for comments. No objections have been raised to the proposal subject to conditions.</p>	

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	<p>SEPP 55: A preliminary site assessment report has also been submitted in respect to SEPP 55, and is considered satisfactory by Council's Environmental Health Officer subject to recommended conditions of consent.</p> <p>The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 The Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the entire Willoughby City Council area. The SEPP focuses primarily on the foreshores and waterways, but also includes provisions to protect the hydrological catchment to maintain water quality, and the natural qualities and assets. The site is not identified: (a) within the Foreshores and Waterways Area; (b) as a strategic foreshore site; (c) as a heritage item (not listed on "Schedule 4 Heritage Items" of the Harbour SEPP); or (d) within the wetlands protection area; Therefore only Part 1 of the SEPP is applicable. Part 1 identifies the aims of the SEPP from (a) to (h) and principles to be adopted in order to achieve those aims. The aims set out in Part 1 of the deemed Harbour SEPP have been considered and the application is consistent with those aims.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	N/A

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	<p>Comment: There are no draft SEPPs that apply to the subject land.</p> <p><u>Chatswood CBD Planning and Urban Design Strategy to 2036</u> The Chatswood CBD Planning and Urban Design Strategy to 2036 (the CBD Strategy) was released by Council in January 2018 in order to guide the future development of Chatswood and future amendments to the WLEP 2012 and the WDCP 2006.</p> <p>The CBD Planning and Urban Design Strategy was adopted by Council at its 27 June 2017 meeting. It is a comprehensive platform for growth, management and direction of the Chatswood CBD for the next 20 years. Currently the Department partially endorsed the strategy.</p> <p>The CBD Planning and Urban Design Strategy refers to the target of 6,300-8,300 additional jobs in the CBD by 2036. As part of that goal, the CBD Strategy proposes an uplift in building density in various sites. The Economic Impact Analysis provided with the current application states that the proposal will result in additional jobs during construction and during operation, including permanent office jobs. The proposal will therefore contribute to achieving the employment targets in the CBD Strategy.</p> <p>Key Elements of Future LEP and DCP Controls of the CBD Strategy proposes the following building envelope controls for the site:</p> <ul style="list-style-type: none"> ▪ Maximum FSR of 6:1 and maximum height of 90m for 12-14 Malvern Avenue, 5-7 Havilah Street and the majority of 345 Victoria Avenue; ▪ Maximum FSR of 2.5:1 and maximum height of 30m for a small area fronting Victoria Avenue. <p>The proposed development will have a FSR well within the above proposed. The majority of the Chatswood Chase redevelopment sits below the 34m height limit. For the areas where height controls are exceeded, a Clause 4.6 objection has been submitted by the applicant. Nonetheless, the built form proposed sits substantially under an FSR of 6:1 and under height of 90m.</p>	
	<p>The Victoria Avenue elevation makes reference to the reduced height at the street frontage, with its stepping back at higher level.</p> <p>Street frontages are to be active. At ground level, to achieve the vibrant CBD buildings are to maximise active street frontages. Building materials and treatment at street level largely remain the same as that approved by the SNPP in DA 2017/503, except materials facing Archer Street. Council's Urban design officer advised that the Concourse plaza space external (and internal) paving finish incorporates a pale granite finish, while the external paving to the Archer Street frontage are proposed to be darker exfoliated stone (natural (Gosford) sandstone).</p> <p>A condition of consent recommends use of a pale granite finish for the sandstone used on Archer Street. Therefore, subject to conditions, the proposal satisfies the CBD Strategy.</p>	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> • Development control plans (DCPs) 	

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

Comment: The Willoughby Development Control Plan 2006 (WDCP) provides controls for specific development types and locations. Many controls in the WDCP 2006 relate to character, streetscape and public domain works. The proposed development has been assessed against the relevant requirements of the WDCP and, in the context of approved application DA 2017/503, it is considered to provide a better outcome in terms of built form.

– Havilah Street looking south – approved DA 2017/503



– Havilah Street looking south – proposed DA 2019/200



Specific non-compliances are identified in **Attachment 2** and further addressed in **Attachment 6**.

(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	✓
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	✓
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	• Servicing, loading/unloading	✓
	• Public domain	✓
	• Utilities	✓
	• Heritage	✓
	• Privacy	✓
	• Views	✓
	• Solar Access	✓
	• Water and draining	✓
	• Soils	✓
	• Air & microclimate	✓
	• Flora & fauna	✓
	• Waste	✓
	• Energy	✓
	• Noise & vibration	✓
	• Natural hazards: Overland flowpath	✓
	• Safety, security crime prevention	✓
	• Social impact in the locality	✓
	• Economic impact in the locality	✓
	• Site design and internal design	✓
	• Construction	✓
	• Cumulative impacts	✓

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

Comment:

A comparison of the current proposal to approved development application 2017/503 is provided below, noting that DA 2017/503 is a fully compliant scheme with FSR and height controls for the site.

Control	Approved DA 2017/503	Current amending DA 2019/200	Change	Compliance
40m max height 12-14 Malvern Avenue & Northern part of 345 Victoria Avenue	39.35m	29.837m at eastern end, 28.31m when measured at western end.	-11.04m (removal of levels of car park above 12-14 Malvern Ave)	Yes
34m max height 5-7 Havilah Street & Southern part of 345 Victoria Avenue	33.8m	Max 36.86m	+3.06m (provision of additional level of offices fronting Havilah St)	No (Clause 4.6 submitted)
Floor Space Ratio (FSR)	3.37:1	2.96:1	- 0.41:1	Yes
Gross Floor Area (GFA)	131,399m ²	115,466m ²	-15,933m ²	n/a
Gross Lettable Floor Area (GLFA)	92,351m ²	87,025m ²	-5,326m ²	n/a
Car Parking	3,224 spaces	2,577 spaces	- 647 spaces	Yes
Bicycle Parking	322 spaces	322 spaces	No change	Yes
Motorcycle Parking	78 spaces	104 spaces	+26	
Hours of Operation (retail)	6am to 12am, 7 days a week	6am to 12am, 7 days a week	No change	Yes
Hours of Operation (commercial office)	6am to 12am, 7 days a week	24h, 7 days a week		Yes

WLEP 2012 & WDCP Compliance Table comparing approved DA 2017/503 with current application

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

Vehicle Access

In DA 2017/503 vehicle access is obtained via Malvern Avenue, Victoria Avenue and Archer Street. In DA 2019/200, access to car park remains similar to 2017/503, only that additional night access after 10pm is restricted via Archer Street and Victoria Ave.

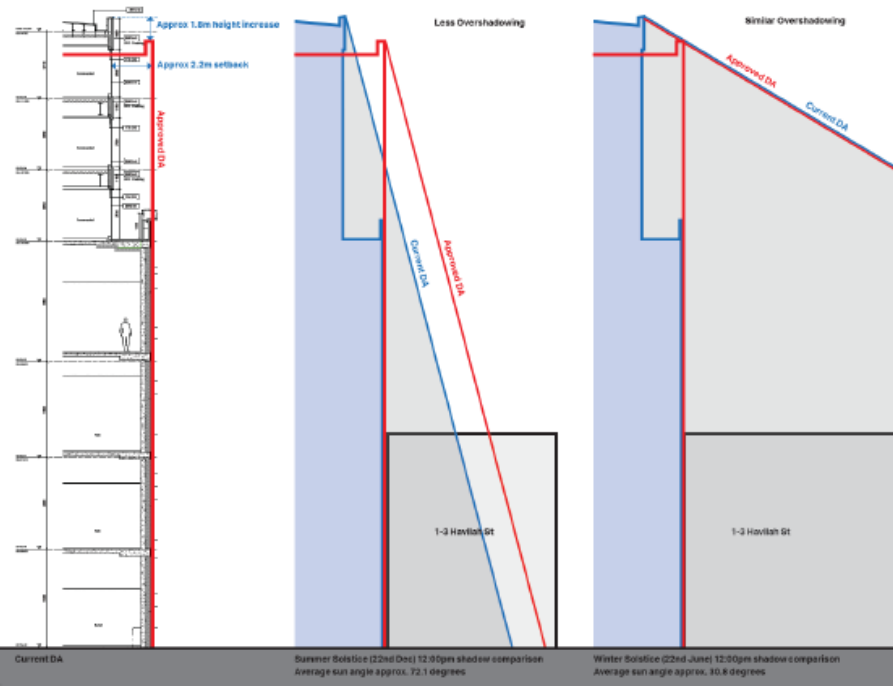
Use	Rate	Area	WDCP Car Parking Requirement	Provision	Compliance
Shop	1 per 25sqm NLA @ 85%	64,825m ²	2,204 car spaces		
Supermarket	6 per 100m ²	3,230m ²	194 car spaces		
Office	1 per 110m ²	17,307m ²	157 car spaces		
Total			2,555 car spaces	2,577 car spaces	Yes
Accessible parking	3% of total no of car spaces		77	79 car spaces	Yes

The amended proposal provides 2577 car parking spaces, marginally exceeding the amount of parking required by the DCP by 22 spaces. This is acceptable taking into account the size of the development. Half of the accessible car parking do not comply with the Australian Standards (AS) for height due to existing situation, however, a condition of consent requires that at least half of the accessible car parking to be located at the upper levels in order to fully comply with the AS.

A condition of consent will require that any other uses within the car parking (eg car washing) shall not extend beyond the excess car spaces provision (limited to 22 car spaces).

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	<p><u>Privacy</u></p> <p>When compared to the approved DA 2017/503, the proposal includes additional glazing at Level 5 and additional building height above 34m, on an area that will allow for floor space at Level 5.</p> <p>Visual privacy impacts to adjacent residential properties will be minimised through the provision of an increased setback above the street wall to Levels 3, 4 and 5.</p> <p>Overlooking from the top level (L5) is predominantly over the adjacent rooftop of 1-3 Havilah Street and as such will result in a similar level of overlooking to that which would be experienced from Level 4 which sits below the 34m height limit. Views from the new office areas will be primarily district views rather than views directly downwards into nearby residential properties. The proposed angled blades will mitigate privacy impacts to adjacent residential building to the south.</p> <p>Due to sufficient separation between the proposed building and 341 & 339 Victoria Avenue (42m to 47m) and the residential dwellings on opposite side of Havilah Street (33m+) and the existing street trees, overlooking is minimised from Level 5 office areas.</p>	
	<p><u>Overshadowing</u></p> <p>The Building Height Study analysis the impact on the private open space areas of the adjacent residential apartment building at 1-3 Havilah Street.</p>  <p>The figure consists of three diagrams. The leftmost diagram is a vertical cross-section of a building facade showing floor levels and setbacks. It labels 'Approved DA' with an 'Approx 1.8m height increase' and 'Approx 2.2m setback'. The middle diagram, titled 'Less Overshadowing', shows a 'Summer Solstice (22nd Dec) 12:00pm shadow comparison' with an 'Average sun angle approx. 72.1 degrees'. It compares the 'Current DA' (blue line) and 'Approved DA' (red line) shadows on a grey block representing '1-3 Havilah St'. The rightmost diagram, titled 'Similar Overshadowing', shows a 'Winter Solstice (22nd June) 12:00pm shadow comparison' with an 'Average sun angle approx. 40.8 degrees'. It compares the 'Approved DA' (red line) and 'Current DA' (blue line) shadows on the same grey block.</p> <p>Shadow analysis by MAKE Architects demonstrating that the proposal casts a similar shadowing at winter solstice at 12pm and less overshadowing at summer solstice, when compared with approved DA 2017/503.</p>	

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	<p>The additional building height to the southern and eastern parapets is acceptable <u>in regard to overshadowing</u> due to the following reasons:</p> <ul style="list-style-type: none"> • A minimum of 2hrs sunlight is achieved to the majority of the east facing living areas and private open space areas of 1-3 Havilah Street between 9am and 12pm such that they will still achieve the minimum requirements under the Apartment Design Guidelines (ADG). • At least 3 hrs of sunlight during the Winter Solstice will be maintained to the living areas and principal private open spaces of the dwellings on the opposite side of Havilah Street, which complies with the requirements of the Willoughby DCP 2006. • When compared to the approved DA 2017/503, the increased upper level setback results in a reduction in overshadowing to 1-3 Havilah Street during the summer solstice and similar level of overshadowing during the winter solstice. • When compared to the approved DA 2017/503, the additional shadow analysis demonstrates there will be no additional impacts to private outdoor amenity of the three apartments within 1-3 Havilah Street between 9am and 12pm. <p>Subject to conditions, the proposed development will not have unreasonable impacts in regard to overshadowing on the adjoining or nearby residents.</p>	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> • Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> • Are the site attributes conducive to this development? 	✓
	Comment: Subject to conditions, the proposal is in keeping with future desired character of the CBD and locality.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> • Public submissions 	✓
	<ul style="list-style-type: none"> • Submissions from public authorities 	✓
	Comment: Four (4) submissions were received when proposal was re-notified. Specific issues of concern raised in public submissions regarding the proposal are addressed in Attachment 4 .	
(e)	The public interest	
	<ul style="list-style-type: none"> • Federal, State and Local Government interests and Community interests 	✓

Matters for Consideration Under the provisions of Clause 4.15 of the *Environmental Planning and Assessment Act*

Satisfactory ✓(subject to conditions) Unsatisfactory ✗ Not Relevant N/A

	<p>Comment:</p> <p>The proposed height variation is balanced by the overall reduction in building mass approved in DA 2017/503 for the car park fronting Malvern Avenue. This reduction in overall building mass is in the public interest as it significantly reduces the overall scale of the proposal such that the proposed exceedances to the 34m building height will be read as part of the overall building envelope. The new office levels will introduce a well-designed, non-intrusive element into the surrounding streetscape. The proposed design will not detract from the surrounding public domain and surrounding heritage conservation areas. In fact, the reconfigured built form is in the public interest as it will result in a significantly improved visual outlook from adjacent heritage conservation areas.</p> <p>The proposal will facilitate additional office floor space and employment opportunities within the Chatswood CBD which is consistent with both State and Local Strategic Planning Policy for the Chatswood Strategic Centre. Overall, subject to conditions, the proposed development will not compromise future desired character of the Chatswood CBD and of the locality, and therefore the proposed development is in the public interest.</p>	
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**ATTACHMENT 5: CLAUSE 4.6 EXCEPTION REQUESTING VARIATION TO
CLAUSE 4.3 HEIGHT OF BUILDINGS**



20 DECEMBER 2019
FINAL
PREPARED FOR VICINITY CENTRES



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TABLE OF CONTENTS

1.	Introduction	1
1.1.	Site Location and Context.....	1
2.	Relevant Assessment Framework	2
2.1.	Clause 4.6 of Willoughby Local Environmental Plan 2012	2
2.2.	NSW Land and Environment Court: Case Law	3
3.	The Proposed Development	6
3.1.	Extent of Proposed Variation	6
4.	Clause 4.6 Variation Request: Height of Buildings	11
4.1.	Key Questions.....	11
4.1.1.	Is the Planning Control a Development Standard?	11
4.1.2.	Is the Development Standard Excluded from the Operation of Clause 4.6?	11
4.1.3.	What is the Underlying Object or Purpose of the Standard?	11
4.2.	Consideration	12
4.2.1.	Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case.....	12
4.2.2.	Clause 4.6(3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?	15
4.2.3.	Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?	24
4.2.4.	Clause 4.6(5)(a) - Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?	25
4.2.5.	Clause 4.6(5)(b) - Is There a Public Benefit of Maintaining the Planning Control Standard?	25
4.2.6.	Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?	25
5.	Conclusion	26
	Disclaimer.....	27

1. INTRODUCTION

This clause 4.6 variation request has been prepared by Urbis on behalf of Vicinity Centres (the proponent) to accompany an amending development application (Amending DA) to DA-2017/503 which was approved in June 2019. The Amending DA seeks consent for alterations and additions to Chatswood Chase Shopping Centre. The site is located at 345 Victoria Avenue Chatswood and includes 12-14 Malvern Avenue and 5-7 Havilah Street Chatswood. The variation request is made pursuant to clause 4.6 of the Willoughby Local Environmental Plan 2012 and seeks to vary the Height of Buildings development standard prescribed for the subject site under clause 4.3 of the *Willoughby Local Environmental Plan 2012* (WLEP 2012).

1.1. SITE LOCATION AND CONTEXT

The Chatswood Chase site is an amalgamation of three lots within the Chatswood CBD as shown in **Figure 1**. The site is irregular in shape, has a total site area of 39,054.44m² and addresses four street frontages. These frontages comprise Malvern Avenue to the north, Havilah Street to the east, Victoria Avenue to the south and Archer Street to the west. The street address, legal description and characteristics of each lot making up the site are outlined in **Table 1**.

Table 1 – Site Details

Street Address	Legal Description	Site Area	Site Characteristics
12-14 Malvern Avenue, Chatswood	Lot 100 in DP 776231	2,575.25sqm	2 storey commercial building that is strata titled.
5-7 Havilah Street, Chatswood	Lot 2 in DP 785149	1,149.19sqm	2 storey commercial building that is strata titled.
345 Victoria Avenue, Chatswood	Lot 10 DP 1143909	35,330sqm	Existing Chatswood Chase Shopping Centre.

Figure 1 – Aerial Image of Site



Source: Urbis Six Maps

2. RELEVANT ASSESSMENT FRAMEWORK

2.1. CLAUSE 4.6 OF WILLOUGHBY LOCAL ENVIRONMENTAL PLAN 2012

Clause 4.6 of WLEP 2012 includes provisions that allow for exceptions to development standards in certain circumstances. The objectives of clause 4.6 are:

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

Clause 4.6 provides flexibility in the application of planning provisions by allowing the consent authority to approve a development application that does not comply with certain development standards, where it can be demonstrated that flexibility in the application of the development standard in the particular circumstances of the case will achieve better outcomes for and from the development.

In determining whether to grant consent for development that contravenes a development standard, clause 4.6 requires that the consent authority consider a written request from the applicant, which demonstrates that:

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

Furthermore, the consent authority must be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone, and the concurrence of the Secretary has been obtained.

In deciding whether to grant concurrence, subclause (5) requires that the Secretary consider:

- a) Whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- b) The public benefit of maintaining the development standard, and*
- c) Any other matters required to be taken into consideration by the Secretary before granting concurrence.*

[Note: Concurrence is assumed pursuant to *Planning Circular No. PS 18-003 Variations to Development Standards* dated 21 February 2018].

This report constitutes a written request under clause 4.6 of the WLEP 2012 to justify the contravention of the Height of Buildings development standard.

The assessment of the proposed variation has been undertaken in accordance with the requirements of the WLEP 2012, Clause 4.6 Exceptions to Development Standards and relevant New South Wales Land and Environment Court (NSW LEC) case law

2.2. NSW LAND AND ENVIRONMENT COURT: CASE LAW

Several key NSW LEC planning principles and judgements have refined the manner in which variations to development standards are required to be approached.

The correct approach to preparing and dealing with a request under clause 4.6 is neatly summarised by Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118:

- [13] *The permissive power in cl 4.6(2) to grant development consent for a development that contravenes the development standard is, however, subject to conditions. Clause 4.6(4) establishes preconditions that must be satisfied before a consent authority can exercise the power to grant development consent for development that contravenes a development standard.*
- [14] *The first precondition, in cl 4.6(4)(a), is that the consent authority, or the Court on appeal exercising the functions of the consent authority, must form two positive opinions of satisfaction under cl 4.6(4)(a)(i) and (ii). Each opinion of satisfaction of the consent authority, or the Court on appeal, as to the matters in cl 4.6(4)(a) is a jurisdictional fact of a special kind: see Woolworths Ltd v Pallas Newco Pty Ltd (2004) 61 NSWLR 707; [2004] NSWCA 442 at [25]. The formation of the opinions of satisfaction as to the matters in cl 4.6(4)(a) enlivens the power of the consent authority to grant development consent for development that contravenes the development standard: see Corporation of the City of Enfield v Development Assessment Commission (2000) 199 CLR 135; [2000] HCA 5 at [28]; Winten Property Group Limited v North Sydney Council (2001) 130 LGERA 79; [2001] NSWLEC 46 at [19], [29], [44]-[45]; and Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827 at [36].*
- [15] *The first opinion of satisfaction, in cl 4.6(4)(a)(i), is that the applicant's written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by cl 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b)). The written request needs to demonstrate both of these matters.*
- [16] *As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.*
- [17] *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
- [18] *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
- [19] *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
- [20] *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
- [21] *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained*

in *Wehbe v Pittwater Council* at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

[22] These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

[23] As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.

[24] The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].

[25] The consent authority, or the Court on appeal, must form the positive opinion of satisfaction that the applicant's written request has adequately addressed both of the matters required to be demonstrated by cl 4.6(3)(a) and (b). As I observed in *Randwick City Council v Micaul Holdings Pty Ltd* at [39], the consent authority, or the Court on appeal, does not have to directly form the opinion of satisfaction regarding the matters in cl 4.6(3)(a) and (b), but only indirectly form the opinion of satisfaction that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3)(a) and (b). The applicant bears the onus to demonstrate that the matters in cl 4.6(3)(a) and (b) have been adequately addressed in the applicant's written request in order to enable the consent authority, or the Court on appeal, to form the requisite opinion of satisfaction: see *Wehbe v Pittwater Council* at [38].

[26] The second opinion of satisfaction, in cl 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under cl 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in cl 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in cl 4.6(4)(a)(ii).

[27] The matter in cl 4.6(4)(a)(ii), with which the consent authority or the Court on appeal must be satisfied, is not merely that the proposed development will be in the public interest but that it will be in the public interest because it is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standard and the objectives of the zone that make the proposed development in the public interest. If the proposed development is inconsistent with either the objectives of the development standard or the objectives of the zone or both, the consent authority, or the Court on appeal, cannot be satisfied that the development will be in the public interest for the purposes of cl 4.6(4)(a)(ii).

[28] The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and

Assessment Regulation 2000, the Secretary has given written notice dated 21 February 2018, attached to the Planning Circular PS 18-003 issued on 21 February 2018, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table in the notice.

*[29] On appeal, the Court has the power under cl 4.6(2) to grant development consent for development that contravenes a development standard, if it is satisfied of the matters in cl 4.6(4)(a), without obtaining or assuming the concurrence of the Secretary under cl 4.6(4)(b), by reason of s 39(6) of the Court Act. Nevertheless, the Court should still consider the matters in cl 4.6(5) when exercising the power to grant development consent for development that contravenes a development standard: *Fast Buck\$ v Byron Shire Council* (1999) 103 LGERA 94 at 100; *Wehbe v Pittwater Council* at [41].*

3. THE PROPOSED DEVELOPMENT

3.1. EXTENT OF PROPOSED VARIATION

The development standard under clause 4.3 of the WLEP 2012 and the accompanying Building Height Map at **Figure 2** specifies two maximum building heights for the site.

Area "U" which is the portion of the site subject to this variation request specifies a maximum building height of 34m. Area "W" relates to the northern part of the site and is subject to a 40m height limit.

This subject development proposed by DA 2019/200 has a maximum building height of 36.86m (RL 116.53m) measured to top of the northern lift overrun and is located on the portion of the site where the 34m building height is applicable.

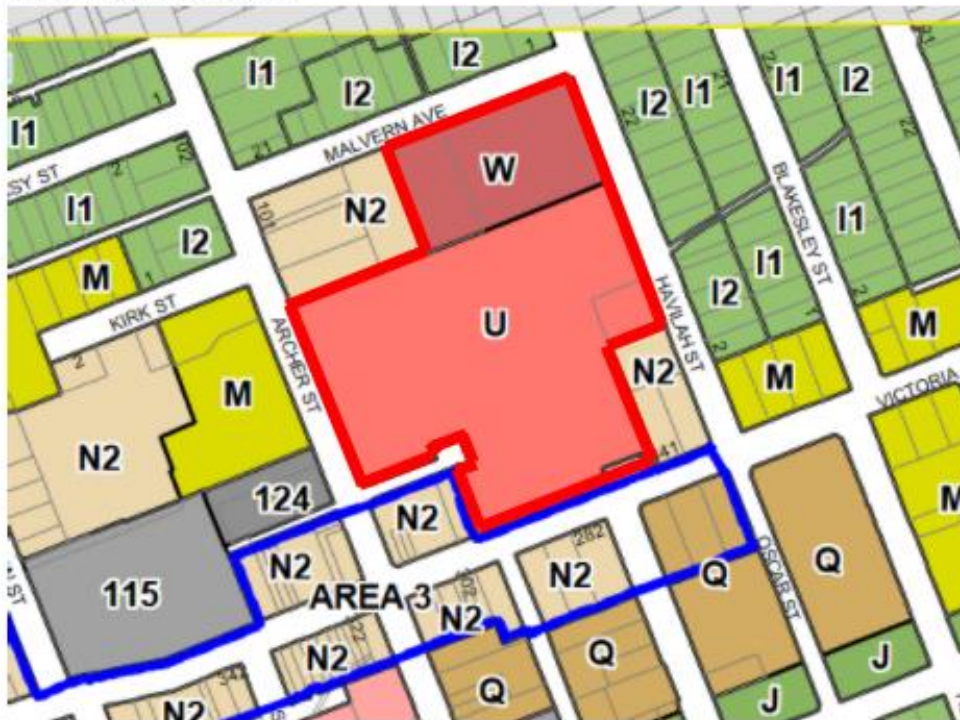
The building form is located significantly below the maximum 40m height control along the northern portion of the site.

The maximum height exceedances of the proposal relate mainly to the two (2) lift core structures which have a maximum height of 36.86m (RL 116.53) and 36.56m (RL 116.45) respectively. As illustrated within **Figure 3** there are other portions which exceed 34m height limit albeit to a lesser extent than the maximum exceedance.

The proposed variation to the 34m therefore ranges from approximately 1.78m at the parapet edge fronting Havilah Street to its maximum extent of 2.86m to the top of the northern lift overrun (RL116.53).

The maximum contravention of the Height of Buildings development standard is 2.86m (8.4%).

Figure 2 – Height of Buildings Map



The overall built form of the development has been substantially reduced from that which was approved in DA2017/503. The reduction in overall built form results from the removal of the previously proposed cinema box fronting Victoria Avenue and the deletion of 4 levels of the multi storey car park fronting Malvern Avenue.

Notwithstanding this overall reduction in height across the site, the development proposed includes an increased quantum of commercial office and co-working floorspace. This floorspace is proposed to be located above the main retail shopping centre and comprises one level of additional office floor space fronting Archer Street (Level 3) and three levels of commercial office floor space fronting Havilah Street (Levels 3-5).

Whilst Levels 3 and 4 of the commercial office footprints fronting Havilah Street are below 34m, portions of Level 5 exceed the 34m height limit. This is because, unlike the approved DA 2017/503, additional height is required to facilitate separate lift access and to provide appropriate floor to ceiling heights to the proposed commercial office space.

Despite the above it is noted that the envelope is similar in form to that which was approved in DA 2017/503 with the main difference being the composition of the façade elements and provision of glazing to maximise the availability of natural light into these new office spaces.

It is noted that there is an approximate 1m difference in height between the maximum exceedances to the top of lift overrun and the exceedances along the parapet fronting the eastern boundary to Havilah Street and southern boundary to the adjacent residential flat building at 1-3 Havilah Street. This is an important consideration when assessing the relative impact of the proposed height variation on surrounding residential properties.

Figure 3 illustrates the 34m building height plane (shown in pink) transposed over the proposed roof line and illustrates the locations and spot heights (RLs) of the proposed building elements which are above the building height plane (shown in white). **Figures 4, 5 and 6** show the extent of the height variation on the east and south facing facades along Havilah Street in comparison to the previously approved DA 2017/503. It is noted that the eastern elevation adjacent to 1-3 Havilah Street will be reduced 3.97m from RL114.10 to RL 110.13. This is consistent with the current floor plans and physical model provided to Council.

To ensure the commercial office element reads as a new and distinct building element, levels 3-5 have been setback 1.575m behind the street wall and 6.575m from the Havilah Street boundary. As illustrated within **Figure 7** the commercial office component provides visual interest and differs in materiality to the main shopping centre.

The different materials utilised for this new component are juxtaposed against the approved striated concrete façade and sympathetically breaks down the overall building mass when viewed from the surrounding public domain, adjacent low-density residential areas and surrounding heritage conservation areas. The design of the commercial office component provides a clear connection to the role and function of Chatswood Chase part of the commercial core areas of the Chatswood CBD.

Havilah Street
—
Height plane study



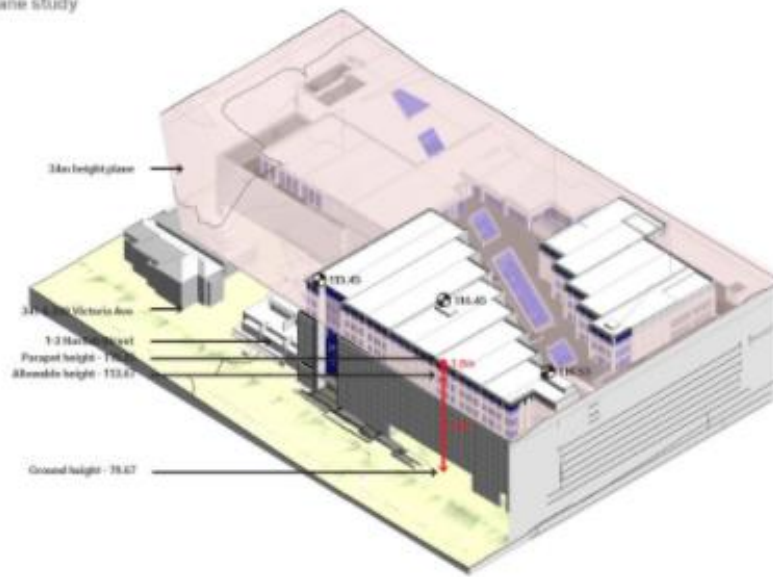
Havilah Street
—
Southern facade



Figure 3 - Height plane of amended proposal

Havilah Street

Height plane study



Source: MAKE Architects

Figure 4 – Havilah Street Elevations (South) – Approved (DA2017/503) and Proposed (DA2019/200)

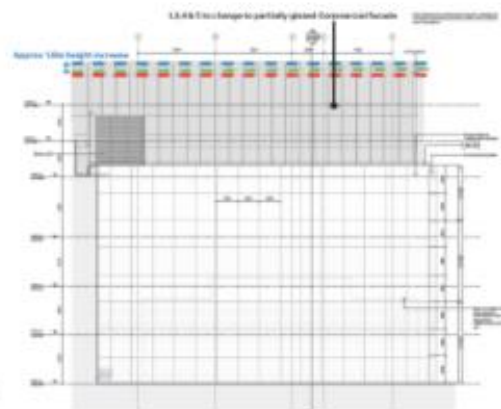
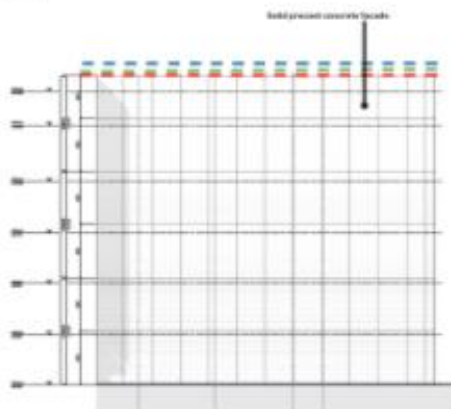
Havilah Street

Southern facade

Approved DA
DA amendment
Allowable facade

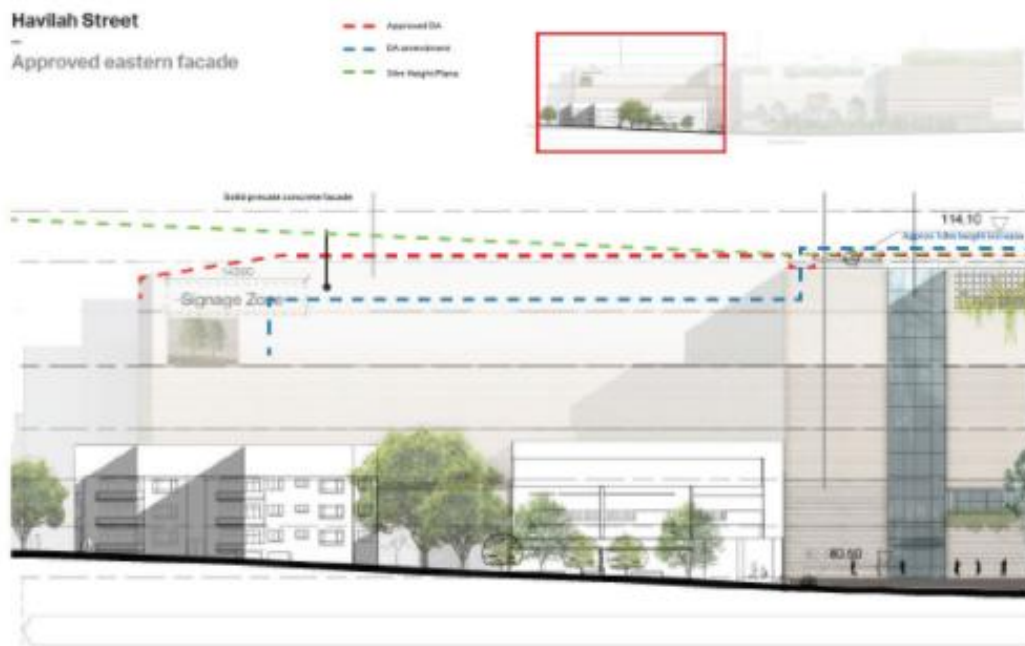


The approved DA comprised of a solid precast concrete facade and the current DA includes glazing.



Source: MAKE Architects

Figure 5 – Havilah Street Elevations (East) – Approved (DA2017/503)



Source: MAKE Architects

Figure 6 – Havilah Street Elevations –Proposed (DA2019/200)



Source: MAKE Architects

Figure 7 – Proposed Havilah Street Elevation - CGI Render



Source: MAKE Architects

4. CLAUSE 4.6 VARIATION REQUEST: HEIGHT OF BUILDINGS

The following sections of the report provide an assessment of the request to vary the development standard relating to the maximum height of buildings in accordance with clause 4.6 of WLEP 2012.

4.1. KEY QUESTIONS

4.1.1. Is the Planning Control a Development Standard?

The height of buildings control prescribed under clause 4.3 of the WLEP 2012 is a development standard capable of being varied under clause 4.6 of WLEP 2012.

4.1.2. Is the Development Standard Excluded from the Operation of Clause 4.6?

The development standard is not excluded from the operation of clause 4.6 as it is not listed within clause 4.6(6) or clause 4.6(8) of WLEP 2012.

4.1.3. What is the Underlying Object or Purpose of the Standard?

The maximum height of buildings under the WLEP 2012 is 34m for the subject portion of the site.

The objectives of the height of buildings development standard as per subclause 4.3(1) of WLEP 2012 are:

- (a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- (b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- (d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
- (e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- (f) to use maximum height limits to assist in responding to the current and desired future character of the locality,*
- (g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- (h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

4.2. CONSIDERATION

4.2.1. Clause 4.6(3)(a) – Compliance with the Development Standard is Unreasonable or Unnecessary in the Circumstances of the Case

The common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary are listed within the 'five-part test' outlined in *Wehbe v Pittwater* [2007] NSWLEC 827. These tests are outlined in **Section 2.2** of this report (paragraphs [17]-[21]).

An applicant does not need to establish all of the tests or 'ways'. **It may be sufficient to establish only one way**, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

The development is justified against the first of the Wehbe tests as set out below.

Test 1: The objectives of the development standard are achieved notwithstanding non-compliance with the standard

The proposed development achieves the objectives of the development standard as outlined within **Table 2** below.

Table 2 – Assessment of Achievement of Objectives of Height of Buildings standard

Development Standard Objective	Achievement of Objective
<i>(a) to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,</i>	<p>As discussed, the majority of the Chatswood Chase redevelopment now sits below the 34m height limit and as such is generally in keeping with the heights originally envisaged for the site under the WLEP 2012.</p> <p>Despite this it is important to consider the future strategic planning context set by the Chatswood CBD Planning and Urban Design Strategy to 2036 (CBD Strategy) which envisages a 90m height limit for most of the Chatswood Chase site which includes the central portions subject to this variation. In this regard the maximum 2.86m exceedance is considered minor in the context of the desired future character set by CBD Strategy.</p> <p>The design of the new commercial office component introduces a contrasting materiality to of the upper levels of the Chatswood Chase building fronting Havilah Street which includes a combination of glazing, angled blades and composite façade. These contrasting elements will provide greater harmony with the existing low-density areas opposite the site.</p> <p>When viewed from the north and east, the building will be read as part of the broader CBD built form backdrop which comprises a number of buildings well in excess of 34m.</p>
<i>(b) to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,</i>	<p>The proposed variation to the height standard has been assessed to have minimal additional shadowing and visual privacy impacts beyond that which was approved within DA 2017/503.</p> <p>Whilst additional glazing is now provided to these new commercial levels, the upper levels have been set back from the street wall such that they are setback 8.15m from the boundary. The setback ensures that shadow impacts remain generally consistent with the approved DA 2017/503.</p>

Development Standard Objective	Achievement of Objective
	<p>The overall height of the building and nature of the proposed use will be such that views from the structure are more likely to be district and regional views rather than views directly into private open space and living areas. The expected overlooking/visual privacy impacts are considered to be minimal. The proposed blade elements will provide some visual screening. It is also noted that existing privacy devices installed on the adjacent residential building to the south prevent unreasonable privacy impacts.</p> <p>Commercial office hours will ensure that any privacy impacts will be primarily limited to daytime hours during the week- when residential private open spaces are less likely to be utilised.</p> <p>In contrast to potential visual privacy impacts the glazing and activity provided to these new office spaces will provide opportunities for passive surveillance of the surrounding public domain.</p> <p>In terms of overshadowing, the shadow diagrams submitted with the amended design demonstrate that the additional building height will not reduce sunlight below 2hrs for adjacent residential flat buildings to the south and below 3hrs between 9am and 3pm to the north facing private open space and living areas of the dwellings on the opposite side of Havilah Street which is consistent with both the SEPP 65 Apartment Design Guide (ADG) criteria and Willoughby DCP.</p>
<i>(c) to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,</i>	The new office levels fronting Havilah Street have been designed to be an attractive, positive and non-intrusive element into the surrounding streetscape. The proposed design will contribute to a high-quality visual landscape when viewed from the surrounding public domain and surrounding heritage conservation areas.
<i>(d) to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,</i>	Given the size of the site relative to surrounding buildings, the minor exceedance to the overall building height is unlikely to disrupt existing views. Notwithstanding the minor variation over 34m the overall reduction in the height of the car park will improve views and outlook particularly from adjacent Heritage Conservation Areas to the north.
<i>(e) to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,</i>	All other development parameters are achieved on the site. The centre is well below its allowable floor space ratio. The minor variation of 2.86m to the height standard will not result in an overall development character that inconsistent with the site controls particularly in the context of the future Chatswood CBD Planning and Urban Design Strategy to 2036 (CBD Strategy) which envisages a maximum height of 90m on the site.

Development Standard Objective	Achievement of Objective
<i>(f) to use maximum height limits to assist in responding to the current and desired future character of the locality,</i>	The majority of the building form sits within the applicable height limits. The proposed variation to the 34m height will facilitate additional commercial office floorspace which is consistent with the desired future character for Chatswood as emphasised within the CBD Strategy. As noted, the exceedance is minor relative to the overall reduction in building height elsewhere on the site including the car park fronting Malvern Avenue which was approved up to 40m in DA 2017/503.
<i>(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,</i>	The proposed variation to the 34m height limit supports the primary retail and commercial character of the site in this eastern end of the CBD by facilitating additional commercial office floor space in consistent with the Chatswood CBD Strategy. The proposed variation does not result in a built form that is incongruous with its CBD commercial core location.
<i>(h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.</i>	As noted previously the Chatswood CBD Strategy envisages a 90m height limit for the site. The subject 2.86m variation applies to a portion of building that is setback more than 8.15m from the Havilah Street boundary in an area where a 0m street setback is envisaged by the CBD Strategy. The proposed height exceedance does not significantly alter the overall scale of the proposed shopping centre which as noted proposes to reduce the approved height of the development in an area where it is permitted to be built to 40m fronting Malvern Avenue.

Based on a detailed assessment of the proposed height variation against the objectives of the development standard it is considered that the objectives are achieved notwithstanding the minor non-compliance.

Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

Not relied upon.

Test 3: The underlying objective or purpose of the standard would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable

Not relied upon.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

Not relied upon.

Test 5: The zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary

Not relied upon.

4.2.2. Clause 4.6(3)(b) - Are there Sufficient Environmental Planning Grounds to Justify Contravening the Development Standard?

The environmental planning grounds that justify variation the Height of Buildings development standard are discussed in detail within the following section.

Strategic Planning – Chatswood CBD

The site is located within the Chatswood CBD which has been the subject of significant strategic planning studies over the past 18 months. These studies saw the release of the Chatswood CBD Planning and Urban Design Strategy in 2018. Recently endorsed by the DPIE, the CBD Strategy aims to promote office growth in the Chatswood Commercial Core by relaxing built form controls to incentivise commercial development. The recently exhibited draft Local Strategic Planning Statement was informed by the CBD Strategy. Both these local strategic planning policies have been developed to give effect to the actions and priorities for Chatswood within the Regional Plan and North District Plan which are focused on growing employment opportunities in strategic centres that are well served by public transport, such as Chatswood.

Having regard to the current strategic planning framework the proposed additional building height is considered to facilitate development that is consistent with strategic planning policy and the desired future character for the Chatswood CBD for these reasons:

- The proposed variation will enable the provision of additional commercial office floor space which is consistent with the objectives and actions of the North District Plan, Draft Willoughby Local Strategic Planning Statement and Chatswood CBD Strategy.
- The variation enables additional commercial office floor space which will allow for the provision of up to 1,279 additional office jobs, contributing to Chatswood's achievement of its short-term job targets as required by the North District Plan.
- The proposed exceedance is minor considering the anticipated controls likely to be available to the majority of the site under the Chatswood CBD Strategy which is predominantly 90m in height with a 6:1 FSR as illustrated in **Figure 8**.
- The proposed height variation supports a built form that is consistent with its location within the Chatswood CBD – Commercial Core.

Figure 8 – Recommended FSR and Height – Chatswood CBD Strategy



Consistency with Existing Planning Controls

Despite the proposed variation to the 34m building height the proposal complies with all other development standards contained in the Willoughby LEP 2012 and other applicable development controls and policies.

- **FSR** - Whilst the variation will result in some additional GFA above 34m this mainly results from ensuring adequate floor to ceiling heights are provided to the commercial office components. Despite this it is noted that the proposed overall FSR of 2.96:1 is still well below the allowable FSR under the Willoughby LEP 2012 of 4.5:1.
- **Design Excellence** - The proposal supports Willoughby Council's commitment to design excellence, achieving high quality design and amenity through a significant upgrade to an existing retail shopping centre whilst also supporting the role and function of the Chatswood CBD through the provision of some 17,000sqm of new high-quality commercial office space.

Environmental Impacts

As demonstrated within the accompanying Building Height Study at **Appendix A** the proposed additional building height does not result in any significant additional environmental or residential amenity impacts when compared to those generated by a compliant building height in this location. These impacts are considered in more detail below.

Heritage Conservation Area & Visual Landscape Impacts

The heritage report submitted with the amending DA has concluded:

*"The proposed amended design will result in an **improved response to the proximal heritage items and heritage conservation area**. The overall reduction in the bulk and scale at Victoria Avenue, Malvern Avenue and Archer Street will result in an improved overall design that better relates to its immediate context. **Despite the additional scale proposed at the Havilah Street façade, it is considered to be minimal and improves upon the previously proposed façade through the use of high-quality materials and façade articulation**" (emphasis added)*

The positive aspects of the overall reduction in building mass to the north balances out the potential additional visual and building bulk impacts generated by the minor exceedance of the 34m building height fronting Havilah Street. Furthermore, it is considered that views to the site from the adjacent Heritage Conservation Areas will be improved such that those elements which will exceed the 34m building height will be indistinguishable from the overall built form of Chatswood Chase.

It is also relevant to note that the maximum exceedance of the building (being the lift overrun) will sit behind the parapet and will have minimal visibility from the surrounding public domain. Longer distance views, and views from above, will read these additions in the context of the larger building mass.

Setbacks and Built Form Impacts

The built form massing fronting Havilah Street makes a positive contribution to the desired future character of Chatswood Commercial Core.

Consideration of the proposal in its context demonstrates the proposed massing, including the additional height and increased setbacks, is in keeping with the overall built form principles for the location envisaged by the CBD Strategy and contributes to public benefit outcomes for the overall precinct as follows:

- As illustrated in Figures 5 and 6 the parapet height adjacent to 1-3 Havilah Street has been reduced by approximately XXm over that which was approved in DA 2017/503 resulting in less visual bulk and overall impact.
- Dwellings located opposite the site to the east on Havilah Street will benefit from an improved building design both in materiality, articulation, and increased upper level setbacks.
- The proposed height exceedance is required in order to achieve adequate floor to floor heights to enable a floor to ceiling height of 2.7m to be provided to each commercial level.
- The maximum proposed height exceedance facilitates lift access to the Level 5 commercial office space, but this is setback approximately 20m from the street frontage and behind a parapet such that it will not be immediately perceptible from the public domain.

- The introduction of additional setbacks at the upper levels to the Havilah street frontage will further reduce the perceived massing the additional building height when compared to the approved DA 2017/503.
- The street wall has been setback 5m from the boundary to generally align with the building line of 1-3 Havilah Street, notwithstanding the 0m setback line applicable to this street frontage. This setback therefore provides greater separation than is otherwise required from the residential dwellings on the eastern side of Havilah Street.
- The development proposes a street wall height of approximately 24m which is consistent with the street wall heights envisaged by the CBD Strategy. Above the street wall the commercial levels are setback a further 1.575m to provide articulation and a distinct break in the built form.
- The proposed materiality of the commercial office component including vertical and horizontal blades and glazing fronting Havilah Street contrasts the previously approved development which despite being below 34m was predominantly inward facing and had significantly less contrast in materiality. The introduction of glazing and blades creates improved visual interest in the façade from that which was originally approved.
- The proposed commercial office component will provide some visual relief from the striated concrete façade elements fronting the adjacent residential areas such that the additional building height of the parapet will not be visually prominent nor intrusive within the streetscape when compared to a compliant built form.

Shadow Impacts and Solar Access

The Building Height Study at **Appendix A** provides a detailed analysis of the shadows cast by the proposed building and includes a comparative analysis between the level of overshadowing impact approved within DA 2017/503 and the proposed DA 2019/200.

The Building Height Study also provides a detailed analysis of the impact upon the private open space areas of the adjacent residential apartment building at 1-3 Havilah Street.

Based on the analysis it can be concluded that the additional building height to the southern and eastern parapets will not result in significant additional impacts to the level of overshadowing approved within DA 2017/503 for the following reasons:

- As demonstrated in **Figure 9**, the increased upper level setbacks result in a reduction in overshadowing to 1-3 Havilah Street during the summer solstice and similar level of overshadowing during the winter solstice when compared to the approved DA 2017/503.
- Additional shadow analysis prepared by MAKE Architects in their Building Height Study, illustrated in **Figures 10, 11 and 12** demonstrates there will be no additional impact to private outdoor amenity of three apartments within 1-3 Havilah Street between 9am and 12pm when compared to the previously approved DA 2017/2019.
- Despite the increased building height, a minimum of 2hrs sunlight is achieved to the majority of east facing living areas and private open space areas of 1-3 Havilah Street between 9am and 12pm such that they will still achieve the minimum requirements under the Apartment Design Guidelines (ADG).
- Despite the additional height at least 3 hrs of sunlight during the Winter Solstice will be maintained to the living areas and principal private open spaces of the dwellings on the opposite side of Havilah Street which complies with the requirements of the Willoughby DCP 2006.
- Overall the shadow analysis provided by Make at **Appendix A** demonstrates that there is minimal additional impact to surrounding residential development generated by the proposed building height exceedance when compared to the previously approved (compliant) built form.

Figure 9 – Havilah Street Shadow Comparison.

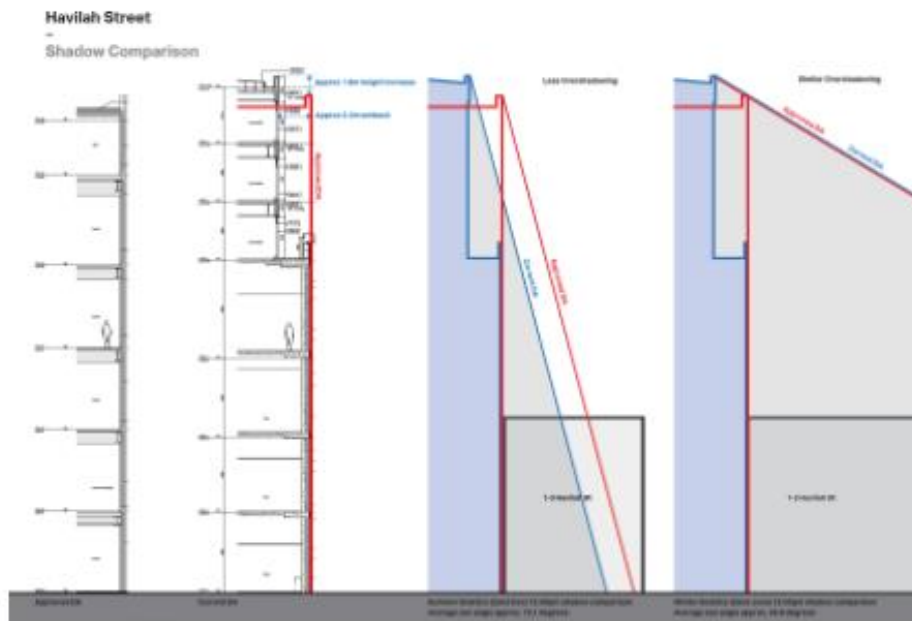


Figure 10 – Shadow Analysis – 1-3 Havilah Street



Figure 11 – Shadow Analysis – 1-3 Havilah Street - Approved DA 2017/503

Shadow Analysis

1-3 Havilah Street - Approved DA



The shadow analysis demonstrates impact on the private outdoor amenity of apartments within the address, 1-3 Havilah Street.
The shadow analysis considers shadows cast between the hours of 9am-3pm (every half hour) on June 22nd (winter solstice).
Between the hours of 9am and 3pm, the amenity of the adjoining property achieves sunlight. This meets the minimum required 2 of hours of sunlight for amenity.

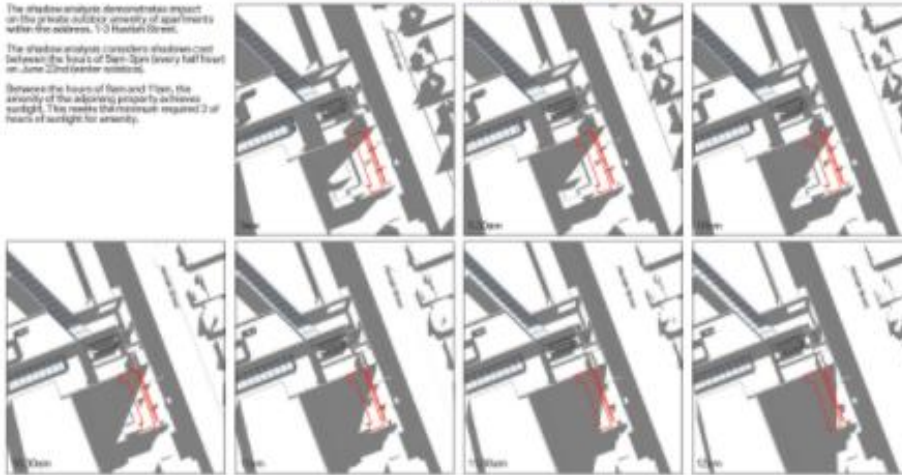


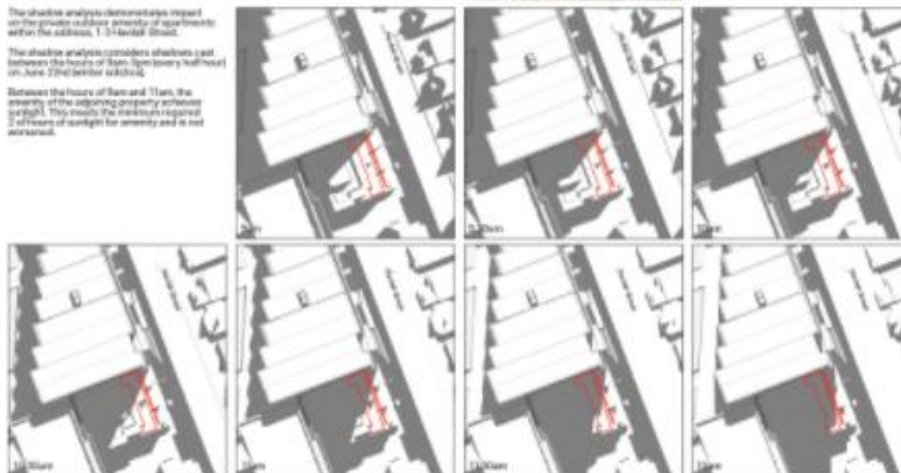
Figure 12 – Shadow Analysis – 1-3 Havilah Street Proposed DA 2019/200

Shadow Analysis

1-3 Havilah Street - Amended DA



The shadow analysis demonstrates impact on the private outdoor amenity of apartments within the address, 1-3 Havilah Street.
The shadow analysis considers shadows cast between the hours of 9am-3pm (every half hour) on June 22nd (winter solstice).
Between the hours of 9am and 3pm, the amenity of the adjoining property achieves sunlight. This meets the minimum required 2 of hours of sunlight for amenity and is not worsened.



Source: MAKE Architects

Visual Privacy and Overlooking

The visual privacy impacts of the proposed additional building height are required to be assessed given that the non-compliance will allow for some floor space at Level 5 above 34m. The proposed DA also includes additional glazing at Level 5 when compared to the approved DA 2017/503. An assessment of the visual privacy impacts which results from the additional building height is provided below.

- Despite the additional 1.8m in height proposed to the upper most part of the southern façade of the building, visual privacy impacts to adjacent residential properties will be minimised through the provision of an increased setback above the street wall to Levels 3, 4 and 5.
- As shown in **Figure 13** the majority of street facing balconies incorporate privacy blade walls and fixed canopies which limit the potential for overlooking into these spaces.
- As shown in **Figure 14** overlooking from the top level (L5) is predominantly over the adjacent rooftop of 1-3 Havilah Street and as such will result in a similar level of overlooking to that which would be experienced from Level 4 which sits below the 34m height limit.
- The additional glazed elements will be framed by angled blades, which will ensure that views from the new commercial office areas will be primarily district views rather than views directly downwards into nearby residential properties. The proposed angled blades shown in **Figure 15** will provide some mitigation to privacy impacts to adjacent residential building to the south.
- It is considered that there will be minimal opportunity for overlooking to the rear living areas and private open space areas of the low-density residential dwellings located on the eastern side of Havilah Street.
- There is sufficient separation between the proposed building and 341 & 339 Victoria Avenue (42m- 47m) and the residential dwellings on opposite side of Havilah Street (35m) which when combined with existing street trees will minimise overlooking impacts from Level 5 of the proposed office areas.
- The approved DA comprised of a solid precast concrete facade including no fenestration. The current scheme proposes partial glazing to the upper levels of both the eastern and southern facades of the Havilah Street frontage which will provide increased activation and passive surveillance of the public domain.

Figure 13 –1-3 Havilah St private open space areas.



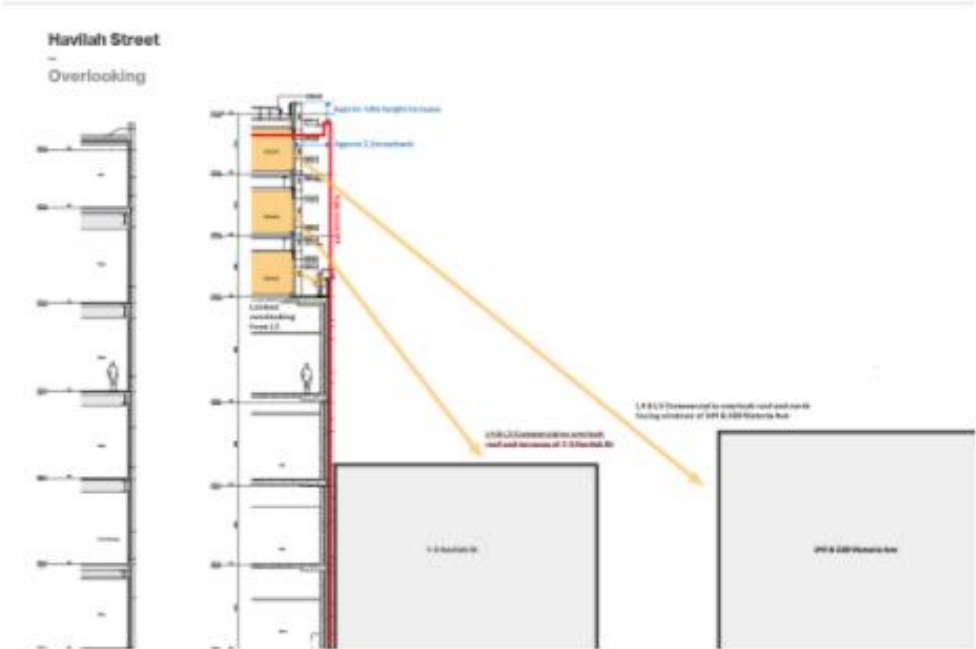
1-3 Havilah St

Source: MAKE Architects

Figure 14 – Blade Detail – Commercial Office Component



Figure 15 – Havilah Street – Overlooking



Source: MAKE Architects

Public benefits arising from the proposed development and building height exceedance

The additional public benefits that will result from approving the development with the proposed height variation are as follows:

- As illustrated in **Figures 16 and 17** the proposed height variation is minor and balanced by the overall reduction in building mass approved in DA 2017/503 for the car park fronting Malvern Avenue. This reduction in overall building mass is in the public interest as it significantly reduces the overall scale of the proposal such that the proposed exceedances to the 34m building height will be read as part of the overall building envelope. It also 'regularises' the size and scale of the building when viewed from the public domain and surrounding areas.
- Notwithstanding the minor building height exceedance, the reconfigured built form is in the public interest as it will result in a significantly improved visual outlook from adjacent heritage conservation areas. As shown in **Figure 18** the additional building height will provide for additional visual activation and interest at the upper levels fronting Havilah Street through a distinct change in materiality to the lower levels of the shopping centre.
- The new office levels fronting Havilah Street will introduce an attractive, well designed, positive and non-intrusive element into the surrounding streetscape and will not overly accentuate the minor exceedance of the overall building height. The proposed design will contribute to a high-quality visual landscape when viewed from the surrounding public domain and surrounding heritage conservation areas.
- The proposed building height increase will facilitate additional commercial office floor space and employment opportunities within the Chatswood CBD which is consistent with both State and Local Strategic Planning Policy for the Chatswood Strategic Centre.

Figure 16 – Havilah Street looking south – approved DA 2017/503



Figure 17 – Havilah Street looking south – proposed DA 2019/200



Figure 18 – Havilah Street looking north



Approved DA 2017/503 - Havilah Street



Amending DA Proposal - Havilah Street

Source: Make Architects

As demonstrated by the reasons outlined in the preceding sections, there are sufficient environmental planning grounds to justify convening the development standard.

Furthermore, compliance with the development standard is considered unreasonable and unnecessary on the basis that despite the minor exceedance the proposed development demonstrates that it can achieve the objectives of the height of buildings development standard within the WLEP 2012.

Strict application of the Height of Buildings development standard in this circumstance would contradict the flexibility facilitated by clause 4.6. Further, strict application of the standard would hinder the attainment of the objectives of clause 4.3 of the Willoughby LEP 2012.

4.2.3. Clause 4.6(4)(a)(ii) – Will the Proposed Development be in the Public Interest Because it is Consistent with the Objectives of the Particular Standard and Objectives for Development within the Zone in Which the Development is Proposed to be Carried Out?

The proposal is consistent with the land use objective that applies to the site under WLEP 2012. The majority of the site is located within B3 Commercial Core zone. However, a portion of the site where the variation is sought (former 5-7 Havilah Street) is zoned B4 Mixed Use. An assessment of the proposal's consistency with the relevant zone objectives is provided within Table 3 and Table 4 below.

Table 3 – Assessment of Compliance with Land Use Zone Objectives – B3 Commercial Core

Objective	Consistency with Objective
<ul style="list-style-type: none"> <i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</i> 	The proposed variation does not prevent the proposed development from achieving this objective. The additional height will allow for additional commercial office space in the Chatswood CBD which is consistent with the CBD Strategy.
<ul style="list-style-type: none"> <i>To encourage appropriate employment opportunities in accessible locations.</i> 	The proposed variation directly provides for additional employment floorspace and as such is consistent with this objective.
<ul style="list-style-type: none"> <i>To maximise public transport patronage and encourage walking and cycling.</i> 	The provision of additional commercial office floor space is likely to encourage use of public transport and active transport modes.
<ul style="list-style-type: none"> <i>To support the role of St Leonards as a specialised centre providing health, research and education facilities.</i> 	Not applicable.
<ul style="list-style-type: none"> <i>To strengthen the role of Chatswood as a major centre for the inner north sub-region and to improve its public domain and pedestrian links.</i> 	The proposed variation facilitates the provision of additional commercial office floor space further strengthening the role of Chatswood as a major employment centre within the region.
<ul style="list-style-type: none"> <i>To protect and encourage safe and accessible city blocks by providing active land uses on street and pedestrian frontages.</i> 	The proposed variation in building height will not result in a development that is inconsistent with this objective.

Table 4 – Assessment of Compliance with Land Use Zone Objectives – B4 Mixed Use

Objective	Consistency with Objective
<ul style="list-style-type: none"> To provide a mixture of compatible land uses. 	The proposed variation does not prevent the proposed development from achieving this objective. The additional height will allow for additional commercial office space within a major retail shopping centre within the Chatswood CBD and is entirely consistent with the CBD Strategy.
<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling 	The proposed variation directly provides for additional employment floorspace and as such is consistent with this objective to maximise public transport patronage and encourage walking and cycling through the provision of end of trip facilities within the shopping centre.
<ul style="list-style-type: none"> To allow for city living on the edges of the city centre of Chatswood, which supports public transport use, shopping, business and recreational services that contribute to the vitality of the centre, without undermining its commercial role. 	N/A

4.2.4. Clause 4.6(5)(a) - Would Non-Compliance Raise any Matter of Significance for State or Regional Planning?

The proposed non-compliance with the height of buildings development standard will not raise any matter of significance for State or Regional environmental planning.

4.2.5. Clause 4.6(5)(b) - Is There a Public Benefit of Maintaining the Planning Control Standard?

The proposed development achieves the objectives of the building height development standard and the land use zoning objectives despite the non-compliance, and the contravention has been demonstrated to be appropriate and supportable in the circumstances of the case. There would be no public benefit in maintaining the development standard in this particular circumstance.

4.2.6. Clause 4.6(5)(c) – Are there any other matters required to be taken into consideration by the Secretary before granting concurrence?

Concurrence can be assumed. Nevertheless, there are no known additional matters that need to be considered within the assessment of the clause 4.6 request and prior to granting concurrence, should it be required.

5. CONCLUSION

In summary, the proposal is considered appropriate and consistent with the objectives and intent of clause 4.3 of the WLEP 2012. As demonstrated within this variation request, strict compliance with the numerical standard in this instance is both unreasonable and unnecessary for the following reasons:

- The delivery of an upgraded regional shopping centre within an established urban environment, located near public transport options, without significant or unreasonable environmental impact is considered to be both orderly and economic use of urban land.
- There are sufficient planning grounds to justify contravening the height of buildings development standard.
- The non-compliance will not hinder the development's ability to satisfy the objectives of the B3 Commercial Core and B4 Mixed Use land use zones.
- The variation does not result in unreasonable adverse amenity impacts on adjacent land beyond a compliant built form.
- The variation does not diminish the development potential of adjacent land.

It is our opinion that the request is well founded and, in the circumstances of the case, warrants flexibility in the application of the height of buildings development standard.

DISCLAIMER

This report is dated 20 December 2019 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of Vicinity (**Instructing Party**) for the purpose of Development Application (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

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This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.



APPENDIX A HAVILAH ST BUILDING HEIGHT STUDY

ATTACHMENT 6: ASSESSMENT OF CLAUSE 4.6 EXCEPTION

The proposal exceeds the maximum height of buildings standard as specified in Clause 4.3A of WLEP 2012. *Clause 4.6* of WLEP 2012 provides an appropriate degree of flexibility in applying development standards to particular proposals and enables Council to grant consent to a development that exceeds a development standard within the environmental plan.

A written exception pursuant to Clause 4.6 has been made requesting variation to
Clause 4.3 Height of buildings

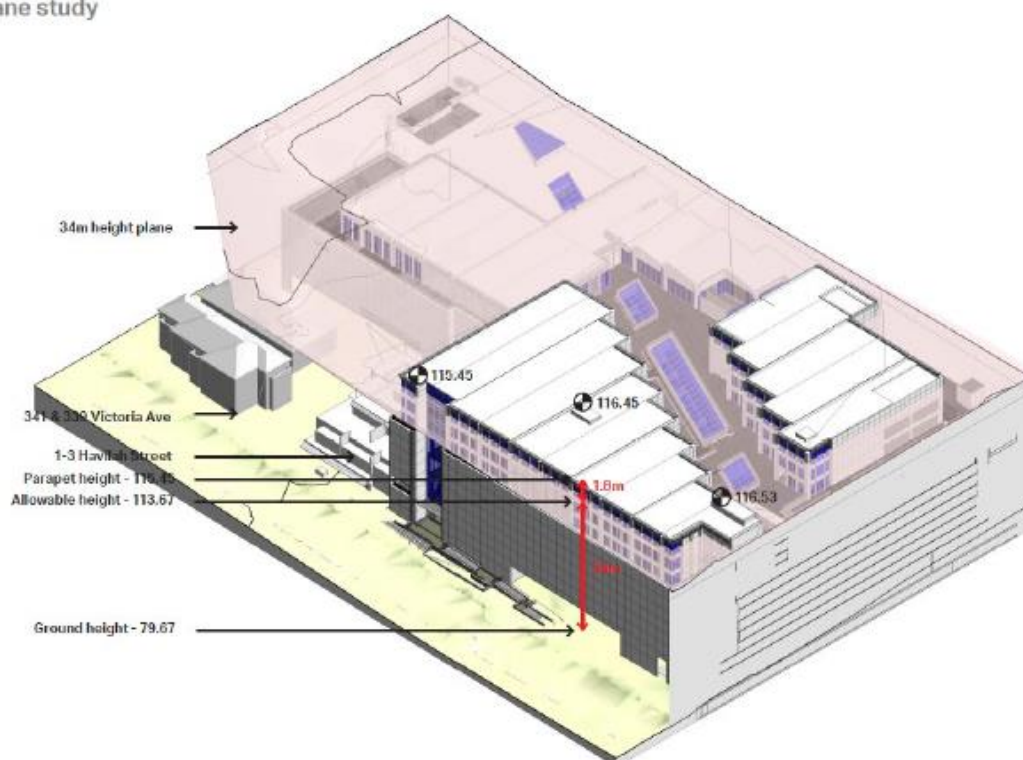
Extent of Variation

Clause 4.3(2) of the WLEP 2012 prescribes the maximum building height for the land as shown on the Height of Building Map.

<i>Willoughby Local Environmental Plan 2012 - Cl. 4.3 Height of Buildings</i>		
Proposed	Control	Compliance
36.86m (RL 116.53) and 36.56m (RL 116.45) – max height at lift cores (exceeds control by 2.86m or 8.4%).	34m - southern part 345 Victoria Avenue and 5-7 Havilah Street	No
29.837m (at the Eastern end of the site)	40m northern part 345 Victoria Avenue and 12-14 Malvern Avenue	Yes

Havilah Street

Height plane study



Study of proposal by MAKE Architects showing the breach of the 34m plane height

Applicant's reasons in support of the variation

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

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

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

In accordance with the requirements of the WLEP 2012, Clause 4.6 Exceptions to Development Standards and relevant New South Wales Land and Environment Court (NSW LEC) case law, the applicant chose to demonstrate that compliance with the height control development standard is unreasonable or unnecessary. The applicant addressed in writing that compliance is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard, arguing that:

- The proposal complies with all other development standards contained in the WLEP 2012 and with other applicable development controls and policies.
- The majority of the Chatswood Chase redevelopment sits below the 34m height limit.
- The overall built form of the development has been substantially reduced from that which was approved in DA 2017/503, including sections fronting Victoria Avenue and including deletion of 4 levels of the multi storey car park fronting Malvern Avenue. One level of additional commercial office floor space is now fronting Archer Street (Level 3) and Havilah Street, however, the commercial component is setback 1.575m behind the street wall from Victoria Avenue and 6.575m from the Havilah Street boundary.
- The proposed amended design will result in an improved response to the proximal heritage items and heritage conservation area (quote from the heritage report submitted).
- The composition of the façade elements and provision of glazing to maximise the availability of natural light translates into an appropriate design that integrates well into the Chatswood CBD.
- The increased upper level setbacks result in a reduction in overshadowing to 1-3 Havilah Street during the summer solstice and similar level of overshadowing during the winter solstice when compared to the approved DA 2017/503.
- The exceedance is minor relative to the overall reduction in building height elsewhere on the site including the car park fronting Malvern Avenue, as approved by DA 2017/503.
- The proposed exceedance is minor considering the anticipated controls likely to be available to the majority of the site under the Chatswood CBD Strategy which is predominantly 90m in height with a 6:1 FSR.
- The proposed variation will enable the provision of additional commercial office floor space which is consistent with the objectives and actions of the North District Plan, Draft Willoughby Local Strategic Planning Statement and Chatswood CBD Strategy.
- The variation enables additional commercial office floor space which will allow for the provision of up to 1,279 additional office jobs, contributing to Chatswood's achievement of its short-term job targets as required by the North District Plan.

- The non-compliance will not hinder the development's ability to satisfy the objectives of the B3 Commercial Core and B4 Mixed Use land use zones.

The proposed development will be in the public interest because it is consistent with the objectives for development within the B4 Mixed Use zone and the objectives of the Height of buildings development standard, as follows:

Objectives of the Zoning

The majority of the site is located within B3 Commercial Core zone. However, a portion of the site where the variation is sought (former 5-7 Havilah Street) is zoned B4 Mixed Use. The objectives for development within the B4 Mixed Use zone are listed under the Land Use Table of WLEP 2012, and the reasonableness or necessity for compliance with each relevant objective is assessed below:

- *To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.*

Comments: The additional height will allow for additional commercial office space in the Chatswood CBD, which is consistent with the CBD Strategy.

- *To encourage appropriate employment opportunities in accessible locations.*

Comments: The additional height directly provides for additional employment floor space and as such provides additional commercial office space in an accessible location.

- *To maximise public transport patronage and encourage walking and cycling.*

Comments: The application provides for sufficient bicycles racks to encourage cycling. The location of the site in Chatswood CBD is an ideal location for office space in regard to maximising public transport and walking.

- *To strengthen the role of Chatswood as a major centre for the inner north sub-region and to improve its public domain and pedestrian links.*

Comments: The proposed variation facilitates the provision of additional commercial office floor space further strengthening the role of Chatswood as a major employment centre within the region.

- *To protect and encourage safe and accessible city blocks by providing active land uses on street and pedestrian frontages.*

Comments: The additional height does not impact this objective.

The objectives for development within the B4 Mixed Use zone are listed under the Land Use Table of WLEP 2012, and the reasonableness or necessity for compliance with each relevant objective is assessed below:

- *To provide a mixture of compatible land uses.*

Comments: The variation enables additional commercial office floor space which will allow provision of up to 1,279 additional office jobs, contributing to Chatswood's achievement of its short-term job targets, as required by the North District Plan and the CBD Strategy.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

Comments: The proposed variation The proposed variation directly provides for additional employment space and as such is consistent with this objective to maximise public transport patronage and encourage walking and cycling through the provision of end of trip facilities within the shopping centre.

Objectives of the Standard

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

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

Comments: The design incorporates contrasting materiality at upper levels of the Chatswood Chase building fronting Havilah Street which includes a combination of glazing, angled blades and composite façade. These contrasting elements provide greater harmony with the existing low-density heritage listed areas opposite the site. The building will be read as part of the broader CBD built form, which comprises a number of buildings in excess of 34m.

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

Comments: the upper levels have been set back from the street wall such that they are setback over 8m from the boundary. The setback ensures that shadow impacts remain minimal. the shadow diagrams submitted with the amended design demonstrate that the additional building height will not reduce sunlight below 2hrs for adjacent residential flat buildings to the south and below 3hrs between 9am and 3pm to the north facing private open space and living areas of the dwellings on the opposite side of Havilah Street - consistent with both the SEPP 65 Apartment Design Guide (ADG) criteria and Willoughby DCP. The proposed blade elements will provide visual screening. The proposed variation to the height standard has minimal additional shadowing and visual impacts beyond that which was approved with DA 2017/503.

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

Comments: The office levels fronting Havilah Street are designed to be non-intrusive into the surrounding streetscape. The proposed design will contribute to the visual landscape when viewed from the surrounding public domain and the heritage conservation area.

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

Comments: The exceedance to the overall building height will not disrupt existing views. The proposal does not disrupt existing views obtained from surrounding properties or the public domain. The overall reduction in the height of the car park will improve views and outlook particularly from adjacent Heritage Conservation Areas to the north.

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

Comments: The Chatswood Chase building complies with all other development standards, including FSR. As the Chatswood CBD Urban Design Strategy envisages a maximum height of 90m on CBD sites, the amended proposal and variation of 2.86m to the height standard will not result in an overall character that inconsistent with the controls for the area.

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

Comments: The majority of the building form sits within the applicable height control. The proposed variation to the 34m height will facilitate additional commercial FSR which is consistent with the desired future character for Chatswood. The exceedance is minor relative to the overall reduction in building height elsewhere on the site including the car park fronting Malvern Avenue, as approved by DA 2017/503.

(g) to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,

Comments: The development sits within Chatswood CBD. The proposed height variation supports the primary retail and commercial character of the site and facilitates additional commercial office floor space, consistent with the Chatswood CBD Strategy.

(h) to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.

Comments: The new development is in harmony with the bulk and scale of surrounding buildings and the streetscapes. The proposed height exceedance does not significantly alter the overall scale of the proposed shopping centre. Having regard to the current strategic planning framework the proposed additional building height is considered to facilitate development that is consistent with strategic planning policy and the desired future character for the Chatswood CBD.

Grounds for Variation

Sufficient environmental planning grounds exist to vary the height development standard as specified in Clause 4.3 of the WLEP 2012, as described below.

The proposal in its current form provides an appropriate

- The proposal in its current form complies with the other development standards contained in the Willoughby LEP 2012 and other applicable development controls and policies.
- The proposal results in an improved response to the proximal heritage items and heritage conservation area to the north.
- The proposal generates acceptable amenity impacts on adjoining properties and on surrounding streetscapes and a more compliant scheme would not substantially diminish these impacts;
- The proposed exceedance is minor considering the anticipated controls under the Chatswood CBD Strategy.
- The proposed variation will enable the provision of additional commercial office floor space which is consistent with the objectives and job targets of the North District Plan, Draft Willoughby Local Strategic Planning Statement and Chatswood CBD Strategy.
- The non-compliance will not hinder the development's ability to satisfy the objectives of the B3 Commercial Core and B4 Mixed Use land use zones.

Recommendations for the Clause 4.6 Exception

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In this specific case compliance with the development standard is unreasonable and unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. The proposed development, including the variation to the development standard satisfies the objectives of the height of building control and of the zone. Pursuant to Subclause (2) in Clause 4.6 of WLEP 2012, consent may be granted even though the development contravenes the development standard imposed by the environmental planning instrument.

ATTACHMENT 7: SCHEDULE OF CONDITIONS

CONSENT IDENTIFICATION

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

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

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council
(the consent plans listed below will replace the plans outlined in Condition 2 of this consent which were approved with DA 2017/503):

Type	Plan No.	Description	Revision /Issue No	Plan Date (as Amend-ed)	Prepared by
Architecture	DA1147	Demolition Plan B2	01	17.10.19	Webber Australia
Architecture	DA1148	Demolition Plan B1	01	17.10.19	Webber Australia
Architecture	DA1149	Demolition Plan LG & LGA	01	17.10.19	Webber Australia
Architecture	DA1150	Demolition Plan 00 & 00A	01	17.10.19	Webber Australia
Architecture	DA1151	Demolition Plan 01 & 01A	01	17.10.19	Webber Australia
Architecture	DA1152	Demolition Plan 02 & 02A	01	17.10.19	Webber Australia
Architecture	DA1153	Demolition Plan 03	01	17.10.19	Webber Australia
Architecture	AR-MAK-DRG-DA2007	Level B2	08	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2008	Level B1	09	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2009	Level LG	08	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2009A	Level LGA	06	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2010	Level 00	010	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2010A	Level 00A	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2011	Level 01	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2011A	Level 01A	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2012	Level 02	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2012A	Level 02A	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2013	Level 03	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2013A	Level 03A	06	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2014	Level 04	08	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2014A	Level 04A	06	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2015	Level 05	07	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2016	Level 06	06	21.10.19	Make Architects

Type	Plan No.	Description	Revision /Issue No	Plan Date (as Amend-ed)	Prepared by
Architecture	AR-MAK-DRG-DA2200	Proposed Elevation - East	06	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2201	Proposed Elevation - West	06	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2202	Proposed Elevation - South	40	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2203	Proposed Elevation - North	08	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2260	Wall Sections - Vic Ave	03	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2261	Wall Sections - Facade	04	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2262	Wall Sections - Façade	05	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2263	Wall Sections Facade	02	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2300	Proposed Sections	04	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2301	Proposed Sections	05	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2302	Proposed Sections	04	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2303	Proposed Sections	03	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2304	Proposed Sections	04	21.10.19	Make Architects
Architecture	AR-MAK-DRG-DA2305	Proposed Sections	04	21.10.19	Make Architects
Architecture	AR-MAK- DRG-DA7123	Havilah Street- Elevation 04	02	21.10.19	Make Architects
Architect- ure	AR-MAK- DRG-DA7124	Havilah Street- Elevation 05	02	21.10.19	Make Architects
Architect- ure	AR-MAK- DRG-DA7130	Malvern Ave – Elevation 01	02	21.10.19	Make Architects
Architect- ure	AR-MAK- DRG-DA7131	Malvern Ave – Elevation 02	02	21.10.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7280	External Wall Systems 16	03	21.10.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7325	External Wall Systems 22	03	21.10.19	Make Architects
Architecture	AR-MAK- DRG- DA9001	Victoria Avenue Awning Extent	04	21.10.19	Make Architects
Architecture	AR-MAK- DRG- DA9002	Archer Street Awning Extents	04	21.10.19	Make Architects
Architecture	AR-MAK- DRG- DA9003	Havilah Street Awning Extents	03	21.10.19	Make Architects
Architecture	AR-MAK- DRG- DA9050	Awning Types Sections	03	21.10.19	Make Architects
Transport and Traffic	TR-GTA-DWG-03-01 Sheet 1 of 13	Basement B2 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-02 Sheet 2 of 13	Basement B2 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – West Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-03 Sheet 3 of 13	Basement B2 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – East Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-04 Sheet 4 of 13	Basement B2 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview –	P02	24.06.2019	GTA Consultants

Type	Plan No.	Description	Revision /Issue No	Plan Date (as Amend-ed)	Prepared by
		South Zone			
Transport and Traffic	TR-GTA-DWG-03-05 Sheet 5 of 13	Basement B1 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-06 Sheet 6 of 13	Basement B1 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – West Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-07 Sheet 7 of 13	Basement B1 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – East Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-08 Sheet 8 of 13	Basement B1 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – South Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-09 Sheet 9 of 13	Ground Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-10 Sheet 10 of 13	Ground Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-11 Sheet 11 of 13	Level 1 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-12 Sheet 12 of 13	Level 1A Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Transport and Traffic	TR-GTA-DWG-03-13 Sheet 13 of 13	Level 2 Existing Car Park Arrangement (Approximate) - Car Park Compliance Overview – North Zone	P02	24.06.2019	GTA Consultants
Landscape	LA-LAT-DRG-DA-0000	LEVEL LOWER GROUND - OVERALL PLAN	06	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0001	LEVEL GROUND - OVERALL PLAN	06	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0003	LEVEL TWO - OVERALL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0004	LEVEL THREE - OVERALL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0005	LEVEL FOUR - OVERALL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0006	LEVEL FOUR A - OVERALL ROOF PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0007	HAVILAH STREET ENTRY - DETAIL PLAN	06	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0008	ARCHER STREET ENTRY - DETAIL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0009	VICTORIA AVENUE ENTRY - DETAIL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0010	LEVEL TWO TERRACE - DETAIL PLAN	05	18.10.19	Lat27

Type	Plan No.	Description	Revision /Issue No	Plan Date (as Amend-ed)	Prepared by
Landscape	LA-LAT-DRG-DA-0011	LEVEL THREE SUNKEN OASIS - DETAIL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0012	LEVEL FOUR SUNKEN OASIS - DETAIL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0013	LEVEL FOUR A(4a) CAR PARK- DETAIL PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0014	ARCHER STREET ENTRY - SECTION	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0015	HAVILAH STREET ENTRY - SECTION	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0016	HAVILAH STREET INTERFACE - SECTION 1	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0017	HAVILAH STREET INTERFACE - SECTION 2	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0018	VICTORIA AVENUE ENTRY - SECTION 1	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0019	VICTORIA AVENUE ENTRY - SECTION 2	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0020	MALVERN AVENUE INTERFACE - SECTION	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0021	LEVEL THREE SUNKEN OASIS - SECTION 1 & 2	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0022	LEVEL THREE SUNKEN OASIS - SECTION 3 & 4	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0023	LEVEL LOWER GROUND - SOIL DEPTH PLAN	06	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0024	LEVEL GROUND - SOIL DEPTH PLAN	06	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0026	LEVEL TWO - SOIL DEPTH PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0027	LEVEL THREE - SOIL DEPTH PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0028	LEVEL FOUR - SOIL DEPTH PLAN	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0030	ELEVATION Victoria (Southern) & Archer (Western)	05	18.10.19	Lat27
Landscape	LA-LAT-DRG-DA-0031	ELEVATION Havilah (Eastern) & Malvern (Northern)	05	18.10.19	Lat27

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 S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

2. Modification of Development Application DA2017/503

- (a) Prior to the commencement of this development consent, the existing base development application consent DA2017/503 dated 7 June 2019, shall be modified pursuant to section 4.17 (1)(b) and (c) of the Environmental Planning and Assessment Act 1979 to the satisfaction of the Manager of Planning. The drawings set out in the following schedule shall be modified by the approved drawings nominated at Condition 1 (Approved Plans/Details) of this consent.
- (b) Notice of such modifications shall be given to Council in accordance with section 97 of the Environmental Planning and Assessment Regulation 2000

prior to commencement of any works pursuant to this consent.

Schedule – Plans to be replaced by the plans listed in Condition 1 of this consent

Type	Plan No.	Description	Revision / Issue No	Plan Date (as Amend-ed)	Prepared by
Architect-ure	AR0001	Demolition Plan – Basement 2	03-WIP		Make Architects
Architect-ure	AR0002	Demolition Plan – Basement 1	03-WIP		Make Architects
Architect-ure	AR0003	Demolition Plan – LG and LGA	03-WIP		Make Architects
Architect-ure	AR0004	Demolition Plan – L00 and L00A	03-WIP		Make Architects
Architect-ure	AR0005	Demolition Plan – L01 and L01A	03-WIP		Make Architects
Architect-ure	AR0006	Demolition Plan – L02 and L02A	03-WIP		Make Architects
Architect-ure	AR0007	Demolition Plan – L03	03-WIP		Make Architects
Architect-ure	AR0190	Demolition Elevations	-		Make Architects
Architect-ure	DA2007	Level B2	05	13.05.19	Make Architects
Architect-ure	DA2008	Level B1	06	13.05.19	Make Architects
Architect-ure	DA2009	Level LG	05	13.05.19	Make Architects
Architect-ure	DA2009A	Level LGA	02	31.07.18	Make Architects
Architect-ure	DA2010	Level 00	07	16.05.19	Make Architects
Architect-ure	DA2010A	Level 00A	04	13.05.19	Make Architects
Architect-ure	DA2011	Level 01	04	13.05.19	Make Architects
Architect-ure	DA2011A	Level 01A	04	13.05.19	Make Architects
Architect-ure	DA2012	Level 02	04	13.05.19	Make Architects
Architect-ure	DA2012A	Level 02A	04	13.05.19	Make Architects
Architect-ure	DA2013	Level 03	04	13.05.19	Make Architects
Architect-ure	DA2013A	Level 03A	03	13.05.19	Make Architects
Architect-ure	DA2014	Level 04	05	13.05.19	Make Architects
Architect-ure	DA2014A	Level 04A	03	13.05.19	Make Architects
Architect-ure	DA2015	Level 05	04	13.05.19	Make Architects

Architect- ure	DA2015A	Level 05A	03	13.05.19	Make Architects
Architect- ure	DA2016	Level 06	03	13.05.19	Make Architects
Architect- ure	DA2200	Elevation –East	04	13.05.19	Make Architects
Architect- ure	DA2201	Elevation –West	04	13.05.19	Make Architects
Architect- ure	DA2202	Elevation–South	08	16.05.19	Make Architects
Architect- ure	DA2203	Elevation–North	06	16.05.19	Make Architects
Architect- ure	DA2260	Wall Sections	01	23.11.18	Make Architects
Architect- ure	DA2261	Wall Sections	02	12.12.18	Make Architects
Architect- ure	DA2262	Wall Sections	03	13.05.19	Make Architects
Architect- ure	DA2263	Wall Sections	00	27.07.18	Make Architects
Architect- ure	DA2300	Sections	02	13.05.19	Make Architects
Architect- ure	DA2301	Sections	03	13.05.19	Make Architects
Architect- ure	DA2302	Sections	02	13.05.19	Make Architects
Architect- ure	DA2303	Sections	01	13.05.19	Make Architects
Architect- ure	DA2304	Sections	02	13.05.19	Make Architects
Architect- ure	DA2305	Sections	02	13.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7123	Havilah Street- Elevation 04	00	13.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7124	Havilah Street- Elevation 05	00	13.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7130	Malvern Ave – Elevation 01	00	13.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7131	Malvern Ave – Elevation 02	00	13.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7221	External Wall Systems 21	01	16.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7230	External Wall Systems 30	01	16.05.19	Make Architects
Architect- ure	AR-MAK- DRG- DA7231	External Wall Systems 31	01	16.05.19	Make Architects
Architect- ure	DA9001	Victoria Avenue Awning Extent	02	16.05.19	Make Architects
Architect- ure	DA9002	Archer Street Awning Extents	02	16.05.19	Make Architects

Architect- ure	DA9003	Havilah Street Awning Extents	01	13.05.19	Make Architects
Architect- ure	DA9050	Awning Types Section	01	13.05.19	Make Architects
Architect- ure		Elevation Havilah Street			Make Architects
Waste Manage- ment Plan				31 July 2018	Compass Project Manage- ment
Arboricult- ural Impact Appraisal and Method State- ment				13 Decemb- er 2017	Naturally Trees
Sustain- ability Score card				31 July 2018	Compass Project Manage- ment
Noise Impact Assess- ment				2 August 2018	Norman Disney and Young
Land- scape	LA-LAT- DRG-XX- 00-0003	Legend Sheet 1	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG-XX- 00-0004	Legend Sheet 2	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG-XX- 00-0030	Planting Schedule Sheet 1	03	17.05.19	Lat 27
Land- scape	LA-LAT- DRG--00- C1-0101	Ground C1 Finishes Plan Sheet 1	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG--00- C3-0102	Ground C3 Finishes Plan Sheet 2	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG--00- D2-0103	Ground D2 Finishes Plan Sheet 3	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG--01- D2-0101	Level 1 D2 Finishes Plan Sheet 1	02	13.05.19	Lat 27
Land- scape	LA-LAT- DRG--02- D2-0101	Level 2 D2 Finishes Plan Sheet 1	02	13.05.19	Lat 27

Land-scape	LA-LAT-DRG--02-D2-0102	Level 2 D2 Finishes Plan Sheet 2	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--03-D2-0101	Level 3 D2 Finishes Plan Sheet 1	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--03-D2-0102	Level 3 D2 Finishes Plan Sheet 2	03	17.05.19	Lat 27
Land-scape	LA-LAT-DRG--03-D3-0103	Level 3 A3 Finishes Plan Sheet 1	03	17.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-A2-0101	Level 4 A2 Finishes Plan Sheet 1	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-A3-0102	Level 4 A3 Finishes Plan Sheet 2	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-A3-0103	Level 4 A3 Finishes Plan Sheet 3	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-C1-0104	Level 4 C1 Finishes Plan Sheet 4	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-C2-0105	Level 4 C2 Finishes Plan Sheet 5	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-C3-0106	Level 4 C3 Finishes Plan Sheet 6	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-C3-0107	Level 4 C3 Finishes Plan Sheet 7	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-D2-0108	Level 4 D2 Finishes Plan Sheet 8	03	17.05.19	Lat 27
Land-scape	LA-LAT-DRG--04-D3-0109	Level 4 D3 Finishes Plan Sheet 9	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--LG-A2-0101	Lower Ground A2 Finishes Plan Sheet 1	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--LG-A3-0102	Lower Ground A3 Finishes Plan Sheet 2	02	13.05.19	Lat 27

Land-scape	LA-LAT-DRG--LG-A3-0103	Lower Ground A3 Finishes Plan Sheet 3	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--LG-B3-0104	Lower Ground B3 Finishes Plan Sheet 4	02	13.05.19	Lat 27
Land-scape	LA-LAT-DRG--LG-C3-0105	Lower Ground C3 Finishes Plan Sheet 5	02	13.05.19	Lat 27

3. Reliance on previous development consent DA 2017/503

- (a) This development consent relies on and must be read in conjunction with, the base development application DA 2017/503 (as amended).
- (b) This consent is subject to compliance with conditions of consent contained in DA 2017/503 (as amended) as follows:

GENERAL CONDITIONS

- 2. Shopping Trolley Management
- 2A Signage

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE.

- 6. Services – Energy
- 7. Payment of additional fees
- 8. Building Plan Approval – Sydney Water
- 9. Damage Deposit
- 11. Flood Risk Management Report
- 13. Flood Emergency Response Plan
- 14. Back-Up Power Supply
- 17. Stormwater Conveyed to Council's Drainage System
- 18. Analysis of Outlet Condition
- 19. Detailed Stormwater Management Plan (SWMP)
- 20. Construction Management Plan (CMP)
- 21. Road Pavement – Engineering Details
- 22. Design of Works in a in Public Road (Roads Act Approval)
- 24. Geotechnical Report
- 25. Sight Lines
- 26. Tree Protection Plan
- 27. Building Ventilation
- 28 Hazardous Building Material Assessment
- 29. Internal Noise Levels Commercial
- 31. Construction Traffic Management Plan
- 32. Traffic Work
- 33. Design Standards for Traffic Management Works
- 34. Management plan for delivery and service vehicles entering and existing the Chatswood Chase Development.
- 35. Parking Management Guidance and Information System (PMGIS)
- 39. Loading Dock Management Guidance and Information System (LDMGIS)

PRIOR TO COMMENCEMENT

- 41. Site Management
- 43. Dilapidation Report of Adjoining Properties
- 44. Public Risk Insurance Policy
- 45. Ventilation Plans and Details
- 46. Geotechnical Report

47. Application for vehicle crossings
48. Dilapidation Report of Council's Property
49. Permits and Approvals Required
50. Project Arborist
51. Spoil Route Plan

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

53. Building Site Fencing
54. Provide Erosion and Sediment Control
55. Suitable Screens
56. Suitable Barricades
57. Demolition Work AS 2601-2001
58. Silencing Devices
59. Suitable footpath Crossing Provided
60. Access to Site
61. Wash Down and Shaker Areas
62. Rock Hammering/Sawing
63. Asbestos Sign to be Erected
64. Neighbour Notification of Asbestos Removal
65. Asbestos Removal and Disposal
66. Survey Certificate
67. Road and Footpath
68. No Storage or Parking on Footway/Nature Strip
69. Skips and Bins
70. Temporary Toilet Facilities
71. Construction Information Sign
73. Sweep and Clean Pavement
74. Footings Near Easement
75. Structures to Clear of Council's Drainage Infrastructure
76. Street Signs
77. Public Tree Protection
78. Storage of Materials on Council Land Prohibited
79. Tree Trunk, Branch and Root Protection
80. Waste Classification – Excavation Materials
81. Hazardous Materials – Clearance Certificate
82. Unexpected Finds Protocols
83. Importation of Fill
84. Dust Control
86. De-watering of Construction Site
87. Loading and Unloading During Construction

PRIOR TO OCCUPATION OF DEVELOPMENT

89. Construction of Flood Mitigation Works
90. Certification of Flood Mitigation Works
91. Works-As-Executed Plans – Flood Mitigation Works
92. Works-As-Executed Plans – Flood Dissipation Works in Havilah Street
93. Works – As – Executed Plans – Overland Flow Channel
94. Section 73 Compliance Certificate – Sydney Water
95. Access for the Disabled – Disability Discrimination Act
96. Registration of Plan of Consolidation Mains
97. Safer by Design
98. Services – Electricity Supply and Telecommunication
99. Temporary Ground Anchors – Destressing
- 100 CCTV Report of Council/Sydney Water Pipe System After Work
- 101 Inspection of Drainage Connection to Council's Drainage Line
- 102 On-site Water Management System
103. Rainwater Re-use – Major
104. Sign for Rainwater Retention and Reuse System
105. Sign for On-site Detention System

106. Confined Space Sign
107. Certification of OSD
108. Certification of Rainwater Reuse System
109. Certification of Basement Pumpout Drainage System
110. Works as Executed Plans – OSD
111. Works as Executed Plans – Rainwater
112. S88B/S88E (3) Instrument
113. Creation of a Floodway Restriction
114. Create Positive Covenant – Indemnifying Council
115. Documentary Evidence of Positive Covenant, Engineers Certificate
116. Certification – Structure/Excavations near Council's Easements
117. Construction of Kerb and Gutter
120. Concrete Footpath
121. Vehicular Crossing
122. Removal of Redundant Crossings
123. Inspection of Civil Works on Road Reserves.
124. Performance Bond.
125. Turfing of Nature Strip
126. Flood Risk Management Plan
127. Inspection of Drainage Works outside of Property and Connection to Council's Drainage Line
128. Sight Triangles
130. Construction of Traffic Management Works
131. Public Tree Maintenance
132. Completion of Landscape Works
133. Contamination/ Remediation – Site Validation Report
134. Sound Level Output Certification
135. Acoustic Treatment – Certification
137. Noise Emission – Equipment
138. Certification – Ventilation
139. Trade Waste Permit / Consent
140. Parking Management Guidance and Information System – construction, commissioning and operation
141. Load Dock Management Guidance and Information System – construction commissioning and operation

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES.

143. Flood Emergency Management Plan and Measures
144. Separate development consent – various
146. Annual Fire Safety Statement
147. Loading and Unloading
148. Analysis of Outlet Condition
150. Underground Utility Services
151. Road Closure
152. Public Infrastructure Restoration
153. Trees on Adjoining Properties
154. Noise Control – Offensive Noise
155. Collection/Delivery Services
157. Mechanical Ventilation Systems Comprising Water Cooling
158. Stormwater Drainage Management
159. Mechanical Ventilation
163. Waste Materials
164. Refuse Collection Point
165. Removal of Trade Waste

PRESCRIBED CONDITIONS

167. Compliance with National Construction Code
168. Support for Neighbouring Buildings

STATUTORY REQUIREMENTS

169. Construction Certificate Required

170. Notify Council of Intention to Commence Works

171. Occupation Certificate.

- (c) This consent is not subject to compliance with conditions of consent contained in DA 2017/503. Amended, updated and new conditions, as relevant, are included starting from **Condition 4** of this consent.

PRIOR TO LODGEMENT OF APPLICATION FOR CONSTRUCTION CERTIFICATE

3. Submit the following information to Willoughby City Council

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE.

4. Amendments

5. Fixed Development Consent Levies

10. Temporary Ground Anchors

12. Flood Risk Management Strategy

15. Basement Flooding – Engineers Certification

16. Stormwater Management Plans – Water Quality and On Site Detention

23. Vehicle Access – Engineers Certification

30. Noise Mechanical Services

36. Car Park and Loading Dock Driveways

37. Disabled Parking Provision

38. Bicycle Facilities

PRIOR TO COMMENCEMENT

40. Building Site Hoarding

42. Noise and Vibration Management

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

52. Hours of Work.

72. Temporary Ground Anchors – Supervision

85. Construction Noise

PRIOR TO OCCUPATION OF DEVELOPMENT

88. Certification of the Flood Risk Management Measures

96. Registration of Plan of Consolidation

99. Temporary Ground Anchors – Destressing

118. Reconstruct Pavement

119. Paving Bricks

129. Vehicle Access – Construction and Certification

136. Acoustic Works – Report

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

142. Annual Testing and Certification of Flood Emergency Measures

149. Vehicular Access and Garaging

145. Erection Wholly within the Boundaries (*Delete*)

156. Public Spa/Splash Pools (*Delete*)

160. Handwash Basin/s – Food Premises (*Delete*)

161. Walls – Solid Construction – Food Premises (*Delete*)

162. Floor, Wall and Ceiling Finishes – Food Premises (*Delete*)

166. Operating Hours.

PRIOR TO LODGEMENT OF APPLICATION FOR CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the lodgement of an application for a construction certificate.

4. Submit the following information to Willoughby City Council (amending condition 3 of DA 2017/503)

Prior to the lodgement of an application for a construction certificate, the applicant shall submit plans satisfying the requirements listed below to Willoughby City Council for approval. Documentation confirming approval by Willoughby City Council shall then be submitted to the Certifying Authority with the application for a construction certificate.

Prior to lodgement of a Construction Certificate, an updated Flood Study Report shall be prepared by a qualified and suitably experienced Civil Engineer and approved by Council. In this regard, Council shall engage an independent qualified civil engineer, specialised in flood analysis and management, to review and support the Flood Study Report. The Report shall:

- i. Assess the extent of the 1% AEP, 0.5%AEP, 0.05%AEP design flood and the Probable Maximum Flood event associated with the Sydney Water stormwater system and related overland flow paths through and around the property. The extents shall be shown with and without the proposed development and flood risk management concept solutions for the basement car park prepared by CJ Arms & Associates dated 20 February 2019 and show the difference in flood levels and flood hazard in accordance with the McLuckie et al 2014 H1 – H6 hazard classification system.
- ii. Assess the levels of the 1% AEP and the PMF event at all entry points to the building to confirm that the floor levels of retail and commercial areas are set above the flood planning level of the 1%AEP plus 0.3 m and to confirm no additional flood protection measures are required to control flooding of the basement up to the PMF apart from those proposed in the concept option prepared by CJ Arms & Associates dated 20 February 2019.
- iii. Demonstrate that the proposed development will not increase the 1% AEP flood levels or peak flood flow velocities on adjacent properties and that the proposed building and basement car park can withstand the likely conditions experienced during the 1%AEP flood event without suffering significant damage.
- iv. Demonstrate that the proposed development will not result in a detrimental increase in the flood hazard categorisation or risk to life on private properties surrounding the development (including residential and commercial allotments and affected properties on the eastern side of Havilah Street) for all events up to the PMF.
- v. Provide evidence on how the conveyance capacity of any overland flow paths (both internal and external to the Centre) which are critical for the operation of the flood management strategy will be maintained for the life of the Centre for all events up to the PMF.
- vi. Include concept plans showing the key features and measures of the proposed flood risk management strategy which is to be incorporated in the development.

- vii. Provide details of how any manually proposed flood gates will be installed during a flood event. Issues to be addressed include key trigger levels, the nature of flooding bordering the Centre at the time of installation (e.g. depth, velocity and rate of rise), potential for the influx of floodwater to the basement prior to the installation of the manual flood gates, duration of installation from the time the key trigger level is reached, the route which would be taken by Centre Management staff from the proposed storage area to the nominated flood gate location and adherence to work health and safety requirements during installation.
- viii. Provide evidence that there is sufficient time to evacuate patrons in a safe and orderly manner from Levels B1 and B2 once key trigger levels are reached. Issues to be addressed include the potential for the influx of floodwater to the basement prior to the installation of the manual flood gates, overtopping of the automatic flood gates during very rare and extreme flood events, and work health and safety requirements.
- ix. Regarding the water quality system, the plans shall include details of the post-flood basement pump-out and water treatment system as required by Condition 10 of this consent (which amends Condition 12 of DA 2017/503).
(Reason: Ensure compliance)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

5. Amendments

(amending condition 4 of DA 2017/503)

Prior to the issue of the relevant Construction Certificate, the proposal is to be amended in the following manner:

- a) The architectural plans shall be revised to provide for a higher level of the loading dock floor accessed from Malvern Avenue, to cater for the OSD spillway level with freeboard as per documentation submitted by CJ Arms on 3 February 2020.
- b) Due to potential increase in depth of ponding in basement level B2, all accessible (disabled) car parking located on the plans at this level – shall be re-located at upper levels.
- c) The proposed development is to include 104 motorcycle spaces.
- d) There will be no change to the existing on-street car spaces on Malvern Avenue. Monitoring of the traffic flow on Malvern Avenue shall be undertaken quarterly within the first 12 months from commencement of operation of the extended car park to ascertain whether retention of the car parking spaces on Malvern Avenue are impeding traffic flow to and from the car park entry on Malvern Avenue. If these spaces are detrimental to traffic flow, evidence shall be put to Council for their removal.
- e) Ensure that scheduled “Screen Planting to Havilah Street and Malvern Avenue façade” establishes at maturity a continuous screen/ vertical layering of mixed tall canopy trees including co-dominants, *Eucalyptus saligna*, *Eucalyptus resinifera* and *Angophora costata* and a mixed sub-canopy/ understorey, including other

scheduled tall shrub/ small mesic tree species. Planting should establish an informal layout with varying centres and set-backs from building facade.

Where practicable canopy trees on Havilah Street should generally be planted with minimum setbacks of 5-7 metres from façade wall to promote balanced development of crowns. Where this setback cannot be achieved canopy trees will be setback 2-3.5m from the façade line in accordance with the approved landscape plans. All canopy trees on Malvern Avenue are to be setback 5-7m from façade walls.

- f) All planter boxes are to be accessible for the purposes of maintenance of vegetation.
- g) The materials of the façade areas labelled 'C' on the northern, southern, eastern and western elevations are to be in accordance with the Plan labelled 'Elevation Havilah Street'.
- h) The natural (Gosford) sandstone proposed on Archer Street and Victoria Avenue shall be replaced with paving equal to treatment used in the external spaces within the Concourse Plaza space (pale Granite finish).

Details of these amendments are required to be shown in the Construction Certificate plans and documentation.

(Reason: Ensure compliance)

6. Fixed Development Consent Levies - S7.12 Contribution

(amending condition 5 of DA 2017/503)

Prior to the issue of the Construction Certificate, a monetary contribution is to be paid in accordance with section 7.12 of *Environmental Planning and Assessment Act, 1979* in the amount of **\$ 9,552,691.23** for the purposes of the Local Infrastructure identified in the *Willoughby Local Infrastructure Contributions Plan*.

This contribution is based on **3%** of the estimated cost of development, being **\$318,423,041** at 21/10/2019 and the adopted *Willoughby Local Infrastructure Contributions Plan*.

Indexation

To calculate the monetary contribution that is payable, the proposed cost of development is to be indexed to reflect quantity variations in the Consumer Price Index, All Groups, Sydney, as published by the Australian Bureau of Statistics (ABS) between the date the proposed cost of development was agreed by the Council and the date the levy is to be paid as required by this Plan.

To calculate the indexed levy, the formula used to determine the monetary contribution is set out below:

$$\frac{\$C_o \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

\$Co = the original development contribution determined by the Council based on a percentage of the cost of development as set out in the Contributions Plan

Current CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter immediately prior to the date of payment

Base CPI = the Consumer Price Index (All Groups Index), Sydney, as published by the ABS at the quarter ending immediately prior to the date of imposition of the condition requiring payment of a contribution

Deferred payments of contributions will not be accepted.

Works-in-Kind agreement

The Applicant may negotiate with Council for the direct provision of facilities and services in lieu of the monetary contribution above (or any portion of that contribution) through a Works-In-Kind (WIK) offer to Council. Any WIK agreement between the Applicant and Council must be finalised, formally signed and in place prior to issue of Construction Certificate

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

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

7. Reconstruction of Sydney Water Culvert (new condition)

Reconstruction of the Sydney Water Culvert shall be carried out generally in accordance with the detailed design requirements listed in the correspondence dated 23 October 2019 between Sydney Water assessor and the applicant.

Plans and details are to be prepared by a qualified civil engineer experienced in stormwater design.

Written evidence specifying that Council has no objection to the overall flood management system for this development shall be requested from Council in order to be provided to Sydney Water.

Approved plans by Sydney Water shall form part of any Construction Certificate.
(Reason: Compliance with Sydney Water requirements)

8. Temporary Ground Anchors (amending condition 10 of DA 2017/503)

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

(Reason: Encroachment of works relating to the installation of any ground anchors)

9. Encroachment over private property and public roads (new condition)

Prior to the issue of the relevant Construction Certificate, written permission shall be obtained from all private property owners affected by any encroachment into the air space above as a result of the installation of protection decks installed along property boundaries. Copies of these permissions shall be provided to Council.
Permanent encroachment following completion of building works is prohibited.

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

(Reason: Encroachment of works in the airspace above adjoining property boundaries)

10. Flood Risk Management Strategy
(amending condition 12 of DA 2017/503)

Prior to issue of the relevant Construction Certificate, detailed plans and specifications suitable for construction are to be submitted to the nominated Accredited Certifier detailing the proposed flood risk management strategy. The detailed plans and specifications are to be prepared and certified by a qualified and suitably experienced Civil Engineer registered on the Engineers Australia National Engineers Register. As a minimum, the flood risk management strategy shall comprise the following measures:

- Flood gates on the Victoria Avenue car park entry to the B1 and B2 levels – these gates are to be designed to activate after the 1%AEP flood event flows to allow flow depths of generally no more than 0.2 m in any location on each basement level and to cause no afflux in the 1%AEP and to minimise flood impacts in greater storms on adjacent properties.
- A formal flood diversion channel/conduit that will convey flows through the proposed building to discharge to Havilah Street – this channel/conduit shall operate in events greater than a 1%AEP flood event (when the flood gates activate) and shall have the capacity to convey flows up to and including 0.05% AEP (1 in 2000 year event).
- For events greater than the 0.05%AEP, a wall along the flood diversion channel can overtop and flood flows in excess of the diversion may enter the carpark up to a depth of maximum 1.2m on Level B2.
- Other modifications to related facilities including:
 - Mills Lane – flood protection works are required to prevent the ingress of flood flows via the Mills Lane loading dock.
 - Energy dissipation works on the outlet of the flood diversion conduit to Havilah Street
 - Modification of stair access to the Victoria Avenue loading dock to prevent flood ingress up to the PMF event.
- Water level sensors which are to be located throughout Levels B1 and B2. The water level sensors are to be linked to suitably designed SCADA system which shall trigger the operation of the flood gates when the depth of ponding in any basement reaches a depth of no more than 0.2 m in any location.
- A post-flood basement pump-out system shall be provided. This system could be temporary and portable and should include some form of water quality treatment which is capable of ensuring that the quality of the water being pumped to Council's stormwater drainage system following the ingress of floodwater to the basement is no worse than baseline water quality conditions in the downstream receiving water (Scotts Creek) (as determined by Council).
- Details of the post-flood recovery for the basement, including pump out and clean-up arrangements and details of arrangements with a suitable contractor to pump and treat floodwater from the basement to the stormwater system. Oil and grease, fine sediments and gross pollutants should be removed from the pumped floodwater prior to discharge.
- A flood warning system which is to alert people when flooding is occurring. The alarm aspect of the flood warning system shall be designed to trigger when flood flows commence flowing into the basement from Victoria Avenue. The system is to be tested annually to ensure that it remains in working order and

confirmation that testing has occurred shall be forwarded to Council prior to 31 January of every year.

- All new or replacement electrical and mechanical facilities or equipment to be installed below the level of the 1% AEP flood level is to be flood-proofed and/or incorporate residual current devices to protect occupants of the basement from electrocution during a flood event.
- All existing and new fire-related facilities installed in the basement area are to be flood proofed to ensure they can operate effectively under all flood conditions, including up to the Probable Maximum Flood event.
- All materials to be used in the basement area are to be flood-compatible up to a depth of 1.2m.
- No hazardous materials are to be stored below the 1% AEP flood level.

11. Basement Flooding - Engineer's Certification

(amending condition 15 of DA 2017/503)

Prior to the issue of the relevant Construction Certificate, a qualified and suitably experienced Civil Engineer must certify that all the necessary measures have been incorporated into the design of the development which will ensure that depths of ponding in all basement car parking areas (existing and proposed) shall not exceed more than 0.2 m in any location for all floods up to 1% AEP in magnitude.

A qualified and suitably experienced Civil Engineer must also certify that measures have been incorporated into the design of the development which will ensure that depths of ponding on levels B1 and B2 shall not exceed 0.2 m and 1.2 m in a Probable Maximum Flood, respectively.

The engineer must undertake an assessment of the critical flows as determined necessary to satisfy this condition. Where floor levels need to be raised or other flood protection measures are deemed necessary, details must be submitted and approved by the Certifying Authority prior to the issue of the relevant Construction Certificate.

All flood mitigation measures designed by a qualified civil engineer, required under the Section "Prior to Lodgement of an Application for the relevant Construction Certificate" of this consent shall form part of any construction certificate issued.
(Reason: Public Safety and reduction in property damage)

12. Stormwater Management Plans – Water Quality and On Site Detention

(amending condition 16 of DA 2017/503)

Submit, for approval by the Certifying Authority, detailed stormwater management plans complying with Part C.5 of the Willoughby DCP and referenced Technical Standards. The stormwater management system shall incorporate "water quality" and "on-site detention (OSD)" systems designed in accordance with the Civil Design Report prepared by C J Arms & Associates, Rev D, dated 18/07/2019, drawing No. CSK01-Rev 1, CSK02-Rev 1, CSK03-Rev 1 and CSK04-Rev 1, dated 03/02/2020, Part C.5 of the Willoughby DCP and with Technical Standard No. 1 "Stormwater Design Elements".

Regarding the on-site detention (OSD) system, the plans shall also comply with the following:

- The OSD system must be located in an area where it can be readily accessible for maintenance purposes, with an access pit located directly over the outlet. Access grates shall be in accordance with Council's policy. Attention is also drawn to the provisions of AS 2865 - "Safe Working in Confined Spaces". In this regard, scaled site plan showing the location of the proposed on-site detention

(OSD) system and the extent of the existing driveway acting as a spillway to cater for detention overflow shall be provided.

- Storage volume and the Permissible Site Discharge rates (PSD) shall be calculated from Table 1 and Table 2 of Council's Technical Standard No.1 – On-Site Detention.
- Demonstrate that the detention storage and orifice outlet are above the 1% AEP HGL level at the point of connection to the receiving stormwater drainage system. In this regard, site specific sections showing the relative location of the OSD system and the spillway over the existing driveway to Malvern Avenue. Such details shall include the relative location of the OSD tank location within existing basement parking levels above and below and the driveway ramp.
- Details of an overflow spillway from the OSD storage with an overland flow path to Malvern Avenue together with calculations demonstrating that the overflow elements can cope with the 1% AEP storm event in accordance with Council's policy. In this regard, full supporting calculations and cross sections of the existing driveway demonstrating the detention overflow could be contained within the existing driveway and then safely conveyed and contained within the Malvern Avenue road reserve without impacting adjoining property(s), having regard to existing gutter flow from upstream catchment. Further, HEC-RAS modelling shall be carried out demonstrating that the overall spillway can be contained within the frontage side of the road pavement. That is, the overflow spillway from the OSD system will not "over-top" the crown of the roadway which will enter the low level property located on the opposite side of Malvern Avenue. Cross-section at 5m intervals shall be provided for the HEC-RAS model from the subject site to Havilah Street.
- Design details of works including any modifications to Council's existing infrastructures (kerb and gutter, road pavement and footpath) required to enable the passage of overflow spillway from the OSD system through the cul-de-sac in Malvern Ave which then convey to Havilah Street shall be provided. Cross-section at 5m intervals shall be provided.
- Freeboard to floor levels adjacent to the OSD storage and the spillway including raising the loading dock floor levels shall be observed and included in the plans.
- Minimum of two (2) sections / elevations showing the OSD structure/basin including the trash rack, step irons if deeper than 1.2m and orifice plates. The sections shall include surface and design RLs for the tank orifice plate, and outlet pipe at the point of connection to Council's system.

Council's Standard Design Certificates and QA Checklists issued by a qualified and experienced civil engineer certifying that the design of the OSD and water quality system are in accordance with Council policies and specifications AS3500.3 – *Plumbing and Drainage Code*, BCA and the above requirements shall be submitted. (Reason: Ensure compliance and stormwater control)

13. Vehicle Access – Engineer's Certification
(amending condition 23 of DA 2017/503)

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

- a) That finished driveway gradients and transitions comply with AS 2890.1 and 2890.2 and will not result in the scraping of the underside of cars.
- b) That a maximum gradient of 5% is provided for the first 6 metres from the property's front boundary to the basement for all new entrances. All new driveway grades shall comply AS2890.1, AS2890.2 and AS2890.5.

- c) That the proposed new vehicular paths and parking arrangements comply in full with AS2890.1, AS2890.2 and AS2890.5 in terms of minimum dimensions provided,
- d) That the headroom clearance of minimum 2.1 metres between the basement floor and any overhead obstruction (including overhead services) is provided for compliance with Section 5.3.1 of AS 2890.1 and Section 2.4 of AS2890.6.
- e) Application of performance-based solution per GTA letter to Council dated 19 November 2019 and Morris Gooding Accessibility Letter dated 17 December 2019.
- f) That headroom clearance of minimum 2.5 metres has been provided to minimum 39 new accessible parking spaces provided on Levels 1A to L3 to comply with Section 2.4 of AS2890.6.
- g) Minimum dimensions of 2.4m x 5.4m shared area shall be provided adjacent to all disabled parking spaces to comply with AS2890.6. Bollards shall be provided at the location on each shared area specified in AS2890.6 which shall be clearly labelled and shown on plans.
- h) That the headroom clearance required in AS 2890.2 for the largest vehicle using the site has been provided for the access area and the path to and from this area.
- i) Simultaneous manoeuvring of B99 and B85 within the parking isles and at internal ramps and ramp ends including clearance for each vehicle in accordance with AS2890.1 is complied with.
- j) Simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS 2890.1 and AS 2890.2 is achieved.
(Reason: Ensure Compliance)

14. Car Parking (new condition)

The total number of car parking spaces approved within the development is **2,577** spaces including 79 accessible spaces. Notwithstanding this, a minimum of **2,555** car parking spaces must be provided in accordance with the relevant WDCP car parking rates for the relevant land use areas as outlined within table below:

Land Use	DCP Rate	Area	DCP Requirement
Shop	1 per 25sqm NLA @ 85%	64,825sqm	2,204
Supermarket	6 per 100sqm	3,230	194
Office / Coworking	1 per 110sqm	17,307	157
Total			2,555
Accessible Parking.	3% of total spaces		77

Details on compliance with the above shall form part of the relevant Construction Certificate plans and documentation.
(Reason: Compliance with the WDCP and amenity)

15. RMS Requirements

(new condition)

- a) The layout of the proposed new car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS 2890.6-2009 and AS 2890.2-2002 for heavy vehicle usage. Parking Restriction may be required to maintain the required sight distances at the driveway.
- b) All vehicles are to enter and leave the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.
- c) All vehicles are to be wholly contained on site before being required to stop.
- d) All buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth).
- e) A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Avenue, during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>
- f) The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

Any required changes due to compliance with the conditions above must be detailed in the relevant Construction Certificate plans.

(Reason: Roads and Maritime Services requirements)

16. Noise Mechanical Services

(amending condition 30 of DA 2017/503)

To minimise the impact of noise onto residential receivers, all mechanical services shall be designed and installed to ensure ambient noise levels are maintained. A detailed review of additional mechanical plant and equipment shall be conducted by a suitably qualified acoustic consultant during the detailed design stage when equipment noise level information is available. An acoustic report prepared by the consultant, positioning of the plant and equipment, and any attenuation required to achieve the noise criteria contained in the report Ref. No. 171107s0012 Rev. 9.0 – New Amending DA by Norman Disney & Young dated 11 July 2019 and Noise Impact Statement for Coworking facility s191011s0006[1.0] by Norman Disney and Young dated 22 October 2019, shall accompany the application for the relevant Construction Certificate.

(Reason: Amenity, environmental compliance and health)

17. Car Park and Loading Dock Driveways

(amending condition 36 of DA 2017/503)

Prior to the relevant Construction Certificate, detailed designs of all new driveways must be provided for Council approval. The following minimum design arrangements must be adopted:

- (a) Separate entry and exit driveways separated by a central concrete median is to be provided on Victoria Avenue, Archer Street and Malvern Avenue for the general traffic and bicycle parking areas. Driveway design must meet Australian Standards, Austroads Guidelines and Council policies and practices.

- (b) The loading dock driveway on Mills Lane and Malvern Avenue must meet Australian Standards, Austroads Guidelines and Council policies and practices.
- (c) Provide minimum pavement width of 3.5m for each entry/exit lane across carpark access (minimum 7m wide in total).
- (d) That a maximum gradient of 1:60 is provided between the property boundary and traffic lane to allow for compliance with AS2890.1, AS2890.2 and AS2890.5 relating to pedestrian crossing crossfall.

(Reason: Road safety, pedestrian access and traffic efficiency)

18. Accessible Parking Provision

(amending condition 37 of DA 2017/503)

Prior to issue of the relevant Construction Certificate, accessible/disabled parking wayfinding and parking spaces must be shown on the plans to be in accordance with WDCP and following conditions:

- a) The parking spaces must be located in a convenient and secure location in as close proximity to the retail areas and internal pedestrian facilities such as lifts, escalators and ramps as possible.
- b) That a total of 79 accessible/disabled parking spaces be provided.
- c) That a minimum of 39 accessible spaces be provided on Level 1A and above in the multi -deck car park that comply with the 2.5m height clearance requirement as detailed in AS/NZS2890.6:2009. This equates to 39 accessible spaces, or 50 per cent of all on-site accessible spaces.
- d) The design and installation of all disabled parking spaces must be undertaken to the satisfaction of Willoughby City Council in accordance with its DCP as well as meet the appropriate Australian Standards, Austroads guidelines, RMS Technical Directions, Council policies and practices and the performance-based solutions recommended in GTA letter to Council dated 19 November 2019 and Morris Gooding Accessibility letter dated 18 December 2019. Plans demonstrating compliance with these requirements are to be submitted to, and approved by, the CA, prior to the issue of the relevant Construction Certificate.

(Reason: Support mobility impaired users access in the Chatswood Chase development)

19. Bicycle Facilities

(amending condition 38 of DA 2017/503)

Bicycle wayfinding, parking, storage and end of trip facilities must be provided on-site in accordance with WDCP.

- (a) Bicycle storage and end of trip facilities must be provided for employees and located in a convenient and secure location in as close proximity to the retail areas as possible. A total of eight (8) showers and associated change rooms (at a rate of one (1) shower/change room per eight (8) spaces) are to be provided for staff use
- (b) Separate bicycle storage facilities must be provided for use by visitors to the Chatswood Chase development.
- (c) That a total of 322 bicycle parking spaces be provided, designed and installed in accordance with AS2890.3 – 1993 – Bicycle Parking Facilities. Details demonstrating compliance with this condition are to be included on the relevant Construction Certificate plans.

(Reason: Support active transport use to the Chatswood Chase development)

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.

20. Building Site Hoarding

(amending condition 40 of DA 2017/503)

Prior to the commencement of work, a hoarding, complying with WorkCover 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)

21. Noise and Vibration Management

(amending condition 42 of DA 2017/503)

The Applicant must prepare a Demolition, Excavation and Construction Noise and Vibration Management Plan and the Plan must:

- a) be prepared by a suitable qualified expert and submitted to the satisfaction of the Principal Certifying Authority;
- b) be prepared in consultation with all noise sensitive receivers where noise levels exceed the construction noise management level, in accordance with EPA guidelines;
- c) describe the measures that would be implemented to ensure:
 - i) best management practice is being employed; and
 - ii) compliance with the relevant conditions of this consent;
- d) describe the proposed noise and vibration management measures in detail;
- e) identify the selection of alternative construction plant and machinery to avoid the generation of excessive noise levels;
- f) include strategies that have been developed to address impacts to noise sensitive receivers, where noise levels exceed the construction noise management level, for managing high noise generating works;
- g) implement intra-day respite periods for construction activities identified as annoying;
- h) implement noise reducing site/work practices and require regular noise checks of equipment;
- i) describe the consultation undertaken to develop the strategies in b) above;
- j) evaluate and report on the effectiveness of the noise and vibration management measures. Monitoring reports shall be submitted to Council on a monthly basis and comply with the recommendations contained in Noise Impact Assessment – New Amending DA Rev 9.0 by Norman Disney and Young dated 11 July 2019 and Noise Impact Statement for Coworking facility s191011s0006[1.0] by Norman Disney and Young dated 22 October 2019.

- k) include a complaints management system that would be implemented for the duration of the project; and
- l) A copy of the CNVMP is to be submitted to Council prior to the commencement of any work. The CNVMP (as revised from time to time) must be implemented by the Applicant for the duration of the construction works.

DURING DEMOLITION, EXCAVATION AND CONSTRUCTION

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

22. Hours of Work

(amending condition 52 of DA 2017/503)

All construction/demolition work relating to this Development Consent within the City, unless varied by an Out of Hours Work Permit, or otherwise permitted by this Condition, must be carried out only between the hours of 7.00am to 5.00pm Mondays to Saturdays. No work is permitted on Sundays or Public Holidays. These hours are subject to the exceptions set out below under the headings 'Noisy Activities' and 'Hours of Work – Extended'.

Works may be undertaken outside the above hours where:

- a) The delivery of materials is required by the Police or a public authority for the delivery of vehicles, plant or materials; or
- b) It is required in an emergency to avoid the loss of life, damage to property to prevent environmental harm; or
- c) A variation is approved in advance in writing by the Council.

Noisy activities

Rock breaking, rock hammering, sheet piling, pile driving and similar activities as well as noisy demolition activities may only be carried out between the following hours:

- a) 9:00 am to 12:00 pm, Monday to Friday;
- b) 2:00 pm to 5:00 pm Monday to Friday; and
- c) 9:00 am to 12:00 pm Saturday

Hours of work – Extended

Internal works may be undertaken outside of the approved hours as outlined in this Condition only after the completion of the external shell and sealing of the entire floor (whether by permanent or appropriate temporary materials as defined by an acoustic engineer) during the following hours:

- a) Between 5.00pm and 7.00am, Mondays to Fridays inclusive; and
- b) Between 5.00pm Fridays and 7.00am Saturdays; and
- c) No works are to be undertaken externally without the prior consent of council; and
- d) No material delivery or removal of waste must take place during the extended hours; and

- e) Approval is not given for the use of any high noise intrusive plant and equipment other than hand operated power tools.
- f) Construction noise must be inaudible inside the nearest residential receiver between midnight and 7.00am.

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 4.55 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 Section 4.55 application may require re-notification in some circumstances.

(Reason: Ensure compliance and amenity)

23. Temporary Ground Anchors – Supervision

(amending condition 72 of DA 2017/503)

A professional Geotechnical Engineer shall be on site to supervise the piling, excavation and finally the installation and stressing of any temporary 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)

24. Construction Noise

(amending condition 85 of DA 2017/503)

All noise from work, including demolition, excavation and building work, 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 and shall comply with the criteria contained in Section 4.2 of the acoustic report 171107s0012 Rev. 9.0 – New Amending DA by Norman Disney & Young dated 11 July 2019 and Noise Impact Statement for Coworking facility s191011s0006[1.0] by Norman Disney and Young dated 22 October 2019.

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.

25. Certification of the Flood Risk Management Measures

(amending condition 88 of DA 2017/503)

Prior to the issue of the relevant Occupation Certificate, a qualified and suitably experienced flood risk management specialist, shall certify that the Flood Emergency Response Plan, the Flood Risk Management Report and the Flood Risk Management Strategy have been implemented.

The certification shall include the satisfactory completion and operation of all measures of the system including *flood warning system, depth trigger system, alarm systems, post-flood basement pump-out and water treatment systems, flood gates, back- up power system etc. to ensure uninterrupted operation of all measures and systems required for flood management and that the Plan has been implemented.*

(Reason: Public health and safety, reduction in flood damages, non-polluting of downstream receiver)

26. Temporary Ground Anchors – Destressing

(amending condition 99 of DA 2017/503)

Prior to the issue of the relevant occupation certificate, all damages to Council's infrastructures due to the works associated with the piling and installation of any 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)

27. Reconstruct Pavement

(amending condition 118 of DA 2017/503)

Prior to the issue of any occupation certificate, half road pavements including any necessary associated works adjoining the full frontage of the development site in Havilah Street, Archer Street, Victoria Avenue and Malvern Avenue shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for these pavements is 5 x 10⁶ ESA.

The applicant may apply to Council to modify the Roads Act approval for consideration to keep existing large sections of these pavements that meet the pavement composition required for the above design traffic loading and are found to be in a satisfactory condition following completion of all development works. In this regard, documentation prepared by a qualified civil engineer experienced in road pavement design together with supporting geotechnical pavement testing reports, including pavement deflection testing shall be submitted to Council with the application to modify the Roads Act approval. In all cases, milling and re-sheeting with AC binder course and AC wearing course, to Council's requirements shall be applied as a minimum to the full extent of the half width road pavements along the full frontage of the development to Archer Street, Victoria Avenue, Havilah Street and Malvern Avenue.

(Reason: Ensure compliance)

28. Paving Bricks

(amending condition 119 of DA 2017/503)

Prior to the issue of the relevant occupation certificate, construct a full width footpath in approved CBD paving for the full frontage of the streets, Archer Street and Victoria Avenue, adjoining to the site in accordance with Willoughby City Council's Segmental Footpath Paving Code. Permission must be obtained from Council's Infrastructure Services Division and the Police Department prior to the opening and closure of the footpath and road pavement for construction works.

(Reason: Public amenity)

29. Vehicle Access - Construction & Certification

(amending condition 129 of DA 2017/503)

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

- a) That the as-constructed car park complies with the approved Construction Certificate plans for all new works,
- b) That a maximum gradient of 5% has been provided for the first 6 metres from the property boundary to the basement.
- c) All driveway grades comply with AS 2890.1, AS 2890.2 and AS 2890.6
- d) That finished driveway gradients and transitions will not result in the scraping of the underside of cars.
- e) All parking spaces are open type with no partitions.
- f) That the as-constructed vehicular path and parking arrangements for all new works comply in full with AS2890.1 – 2004, AS 2890.2 – 2004 and AS 2890.6 in terms of minimum dimensions provided,
- g) That the headroom clearance has been provided between the basement floor and any overhead obstruction to comply with AS 2890.1 and Section 2.4 of AS2890.6.
- h) That the headroom clearance of minimum 2.5 metres has been provided to all minimum 39 new accessible parking spaces on Levels 1A and above for people with disabilities to comply with Section 2.4 of AS2890.6.
- i) Aisle widths throughout basements complies with AS2890.1
- j) That the headroom clearance has been provided for the access and loading area for the largest vehicle accessing the site and complies with AS2890.2.
- k) Minimum dimensions of 2.4m x 5.4m shared area shall be provided adjacent all disabled parking spaces to comply with AS2890.6. Bollards shall be provided at the location on each shared area specified in AS2890.6 which shall be clearly labelled and shown on plans.
- l) Simultaneous manoeuvring of the B99 and B85 vehicles at ramps and ramp ends including clearance for each vehicle as per AS 2890 is catered for.
- m) Access and manoeuvrability of the largest vehicle accessing the site and compliance with AS 2890 and simultaneous manoeuvrability of the largest vehicle using the site and a passenger vehicle including clearances in accordance with AS 2890.1 and AS 2890.2 is achieved.

(Reason: Ensure Compliance)

30. Acoustic Works – Report
(amending condition 136 of DA 2017/503)

Prior to the issue of the relevant occupation certificate, certification shall be provided upon completion of the relevant new 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 Noise Impact Assessment – New Amending DA Rev 9.0 by Norman Disney and Young dated 11 July 2019 and Noise Impact Statement for Coworking Facility s191011s0006[1.0] by Norman Disney and Young dated 22 October 2019.

This should also include but is not limited to;

- (a) Maintain existing barriers around Coles condenser (roof) and replacing existing louvres of the Coles plant room (Lower Ground Level)) with acoustic louvres with a higher sound isolation performance.
- (b) Maximum allowable sound power levels for each of the new car park exhaust fans shall be limited to $L_{eq}85$ dB(A).
- (c) Maximum allowable sound power levels for the two new cooling towers cooling fans shall be limited to $L_{eq}85$ dB(A) for the cooling fan on top of the tower and to $L_{eq}75$ dB(A) for the cooling fan on the sides at the bottom of the tower.
- (d) Where additional mechanical equipment is required to be added on site, it should be reviewed by a qualified acoustic consultant to ensure noise compliance is achieved.
- (e) Installation of acoustic screening on the façade facing Havilah Street & Malvern Avenue, Chatswood which is to extend up to the underside of the Level 3A floor.
- (f) The noise from all sound producing plant, equipment, machinery and/or mechanical ventilation system complies with the relevant noise criteria contained in the acoustic report.

(Reason: Amenity, environmental compliance and health)

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

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.

31. Annual Testing and Certification of Flood Emergency Measures
(amending condition 142 of DA 2017/503)

The Flood Emergency Management Systems and Measures in their entirety including flood warning system, depth trigger system, alarm systems, basement pump out systems, flood gates, back- up power system etc. to ensure continued and uninterrupted operation of all measures and systems required for flood management, as indicated in the Flood Risk Management Report, Flood Risk Management Strategy and required in the conditions of this consent shall be tested annually by suitably qualified consultants to ensure they are in good working order. A suitably qualified emergency management specialist, experienced in emergency flooding response shall certify that the Flood Emergency Response Plan in its entirety including the Flood Emergency Management Measures prepared in accordance with the approved Report and conditions of this consent is operating in a good working order. This certification shall be submitted to Council annually on 31 January of every year.

(Reason: Flood Management Safety)

32. Vehicular Access and Garaging
(amending condition 149 of DA 2017/503)

Driveways and vehicular access ramps shall be designed to provide adequate ground clearance to the underside of B99 vehicles. All new vehicle access and/or parking spaces other than those impacted by existing structural requirements shall be designed and constructed to comply with the minimum requirements of AS/NZS 2890.1 and AS2890.2 and Council's standard specification.
(Reason: Vehicular access)

33. Operating Hours
(amending condition 166 of DA 2017/503)

The operating hours of the proposed development are to be restricted to 6am to midnight, 7 days per week, except for the following:

- (a) The operating hours of any premises facing Havilah Street at Level 00 are to be restricted to 7am to 6pm. Windows and doors of any such premises must be closed between 6pm and 7am.
 - (b) The operating hours of outdoor areas of any other premises are to be restricted to 7am to 10pm. Windows and doors of any such premises must be closed between 10pm and 7am.
 - (c) 24-hour access to the commercial office / co-working component, noting that vehicle access to the car park between 10pm and 6am is to take place via Archer Street and Victoria Avenue only.
 - (d) Deliveries are to be restricted to 7am to 10pm, 7 days per week.
- (Reason: Public amenity)

34. Car Parking Access
(new condition)

Vehicle access to the car park between 10pm and 6am is to take place via Archer Street and Victoria Avenue only.
(Reason: Maintain amenity to neighbouring residential areas.)

35. Free Car Parking
(new condition)

The car parking allocated for commercial/retail component (minimum 2398 car spaces) shall provide for a minimum of 3 hours free-of-charge parking per day, for the life of the development.
(Reason: Public amenity)

PRESCRIBED CONDITIONS

The following conditions are prescribed by Section 4.17 of the Environmental Planning & Assessment Act for developments involving building work.

33. Food Premises and Skin Penetration Premises
(new condition)

The fit out of any new food premises or skin penetration premises within the development shall be subject to separate development consent.

If a Private Certifier is to be used, the final inspection of the premises fit out shall be carried out by a suitably qualified person. Documentation is to be submitted to the Certifying Authority certifying compliance with all relevant requirements.
(Reason: Public health, safety and compliance)

34. Car Washing Operation
(new condition)

Car washing operations within the development shall be subject to a separate development consent of Council.

(Reason: Environmental compliance)

ATTACHMENT 8: NOTIFICATION MAP

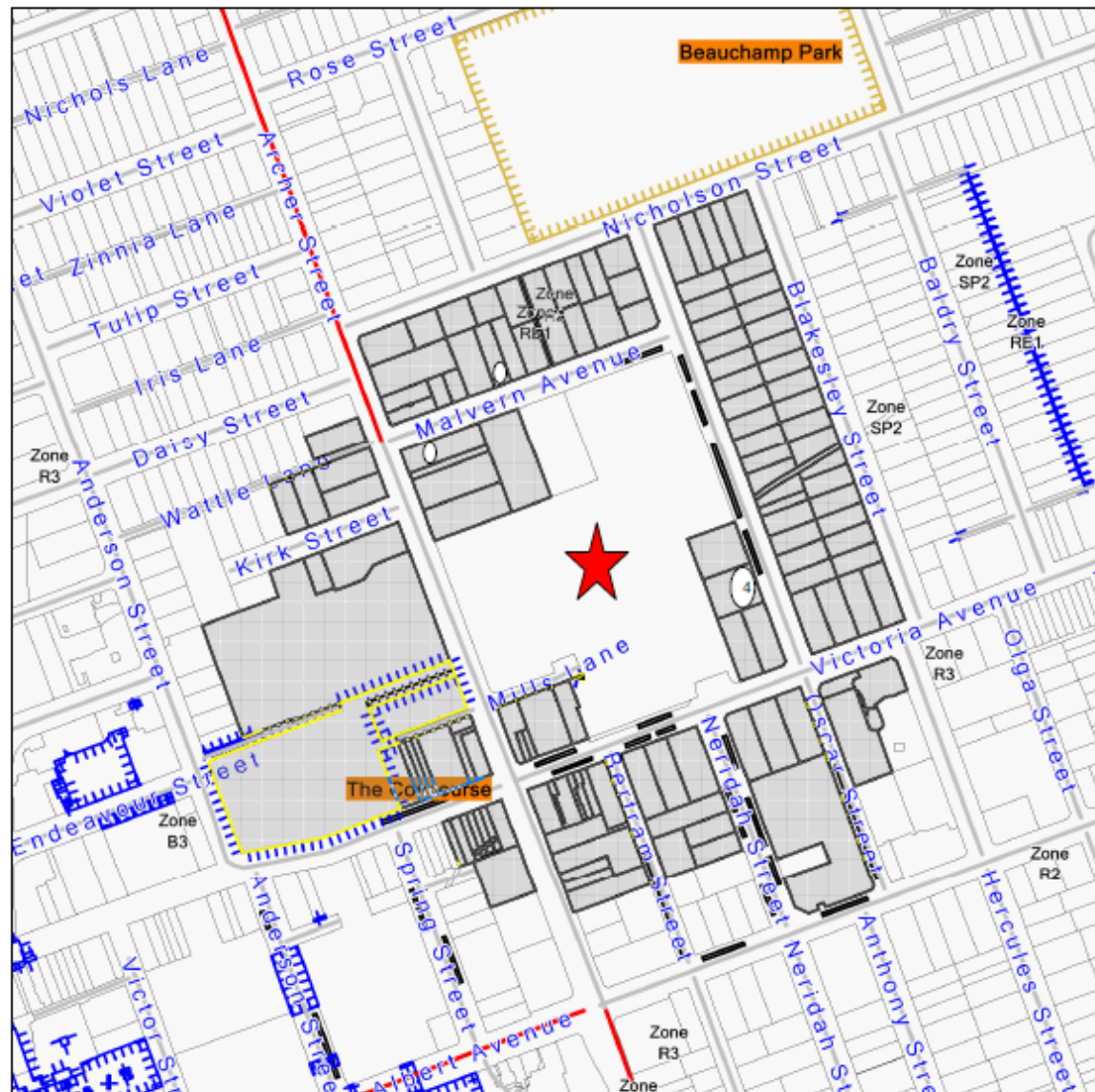


Record of Neighbour Notifications sent relating to:

DA: 2019/200

At: 345 Victoria Avenue, 12-14 Malvern Avenue and 5 Havilah Street, CHATSWOOD NSW

2067



SUBJECT PROPERTY:



OBJECTORS :

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